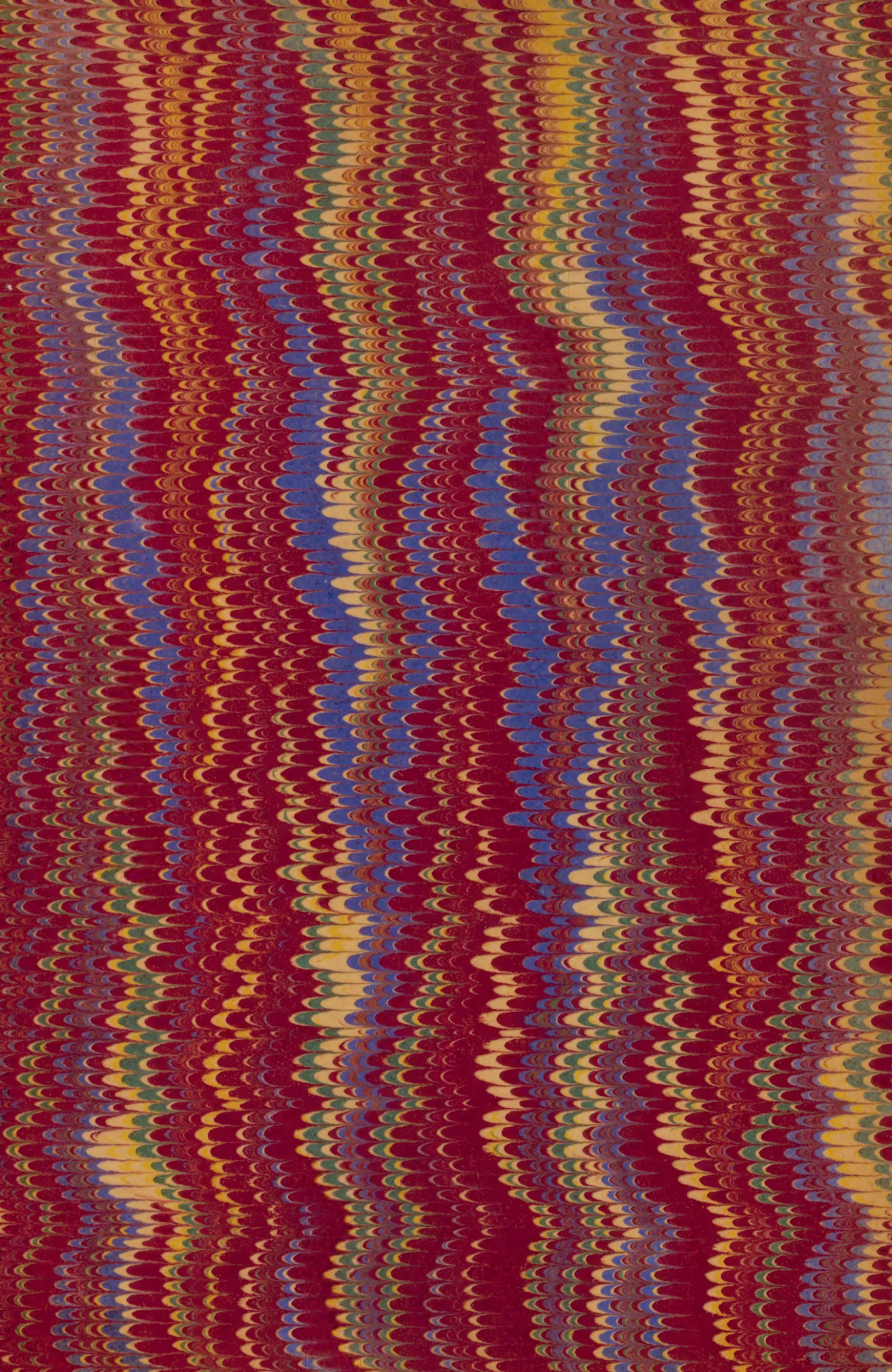


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LAWS

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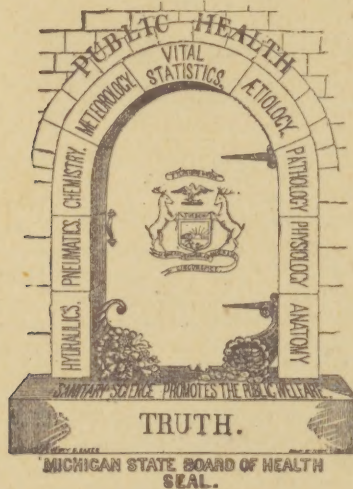
PUBLIC HEALTH,

IN FORCE IN THE YEAR 1890.

COMPILED UNDER THE DIRECTION OF THE SECRETARY OF THE
STATE BOARD OF HEALTH.

Supplement to the Annual Report of the State Board of Health for the Year 1889.

[No. 330.]



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INTRODUCTORY AND EXPLANATORY REMARKS.

This compilation is designed especially for use by health officers of local boards of health in Michigan, a class of officers who do not receive the Session Laws, or the compilation of the general laws, distributed by the Secretary of State.

Numbers at the beginning of sections of law are the consecutive numbers of sections as arranged in this compilation. When a number in parenthesis follows, it is the compiler's number of the section in the Compiled Laws of 1871. At the end of the section is given the compiler's number of the section in Howell's Annotated Statutes, 1883. Thus, on page 8, the section numbered 24 is Sec. 1698 of the Compiled Laws of 1871, and §1639 of Howell's Annotated Statutes.

In the arrangement of sections the aim has been, for convenience of reference, to bring together, so far as practicable, laws upon the same subject. To do this it has been necessary, in some cases, to interpolate more recent laws between sections of various chapters in the Revised Statutes of 1846 and the Compilation of 1871; also, to transpose sections in the same chapter or from one chapter to another of the general compilations. Sections have, in some cases, been brought together for their common relations to public-health interests, which, on account of commercial or other relations, would be differently grouped.

As some chapters and acts are given only in part, the sections only being given which seem to have the closest relations to public health or duties of officers of health, in proceedings under the acts reference should be made to the general compilations or to the Session Laws.

Most of the references to cases adjudicated have been taken from Howell's Annotated Statutes.

PUBLIC-HEALTH LAWS,

In Force in the Year 1890.

I.—STATE BOARD OF HEALTH.

ORGANIZATION AND DUTIES.

Act No. 81, Laws of 1873, entitled, "An act to establish a State Board of Health, to provide for the appointment of a superintendent of vital statistics, and to assign certain duties to local boards of health." Approved April 12, 1873.

1. SECTION 1. *The People of the State of Michigan enact,* State board of health established.
That a board is hereby established which shall be known under the name and style of the "State Board of Health." It shall consist of seven members, as follows: Six members who shall be appointed by the governor with the consent of the senate, and a secretary, as provided in section four of this act. The six members first appointed shall be so designated by the governor that the term of office of two shall expire every two years, on the last day of January. Thereafter, the governor, with the consent of the senate, shall biennially appoint two members to hold their offices for six years, ending January thirty-first. Any vacancy in said board may be filled until the next regular session of the legislature by the governor.—§ 1622. Members of, and how appointed. Term of office.

2. SEC. 2. The State board of health shall have the general supervision of the interests of the health and life of the citizens of this State. They shall especially study the vital statistics of this State, and endeavor to make intelligent and profitable use of the collected records of deaths and of sickness among the people; they shall make sanitary investigations and inquiries respecting the causes of disease, and especially of epidemics; the causes of mortality, and the effects of localities, employments, conditions, ingesta, habits and circumstances on the health of the people. They shall, when required, or when they deem it best, advise officers of the government, or other State boards, in regard to the location, drainage, water supply, disposal of excreta, heating, and ventilation of any public institution or building. They shall from time to time recommend standard works on the subject of hygiene for the use of the schools of the State.—§ 1623. Vacancy, how filled. Duties of.

3. SEC. 3. The board shall meet quarterly at Lansing, and at such other places and times as they may deem expedient. A majority shall be a quorum for the transaction of business. Meeting of board. Quorum.

Election of
president and
the adoption of
rules, etc.

They shall choose one of their number to be their president, and may adopt rules and by-laws subject to the provisions of this act. They shall have authority to send their secretary, or a committee of the board to any part of the State, when deemed necessary to investigate the cause of any special or unusual disease or mortality.—§ 1624.

Election of
secretary.

4. SEC. 4. At their first meeting, or as soon as a competent and suitable person can be secured, the board shall elect a secretary, who shall, by virtue of such election, become a member of the board and its executive officer. The board may elect one of their own number secretary, in which case the governor shall appoint another member to complete the full number of the board.—§ 1625.

Term of office of
secretary and
his duties.

5. SEC. 5. The secretary shall hold his office so long as he shall faithfully discharge the duties thereof, but may be removed for just cause at a regular meeting of the board, a majority of the members voting therefor. He shall keep his office at Lansing, and shall perform the duties prescribed by this act, or required by the board. He shall keep a record of the transactions of the board; shall have the custody of all books, papers, documents, and other property belonging to the board, which may be deposited in his office; shall, so far as practicable, communicate with other State boards of health, and with the local boards of health within this State; shall keep and file all reports received from such boards, and all correspondence of the office appertaining to the business of the board. He shall, so far as possible, aid in obtaining contributions to the library and museum of the board. He shall prepare blank forms of returns and such instructions as may be necessary, and forward them to the clerks of the several boards of health throughout the State. He shall collect information concerning vital statistics, knowledge respecting diseases, and all useful information on the subject of hygiene, and through an annual report,* and otherwise, as the board may direct, shall disseminate such information among the people.—§ 1626.

Salary of
secretary.

6. SEC. 6. The secretary shall receive an annual salary which shall be fixed by the State board of health. The board shall quarterly certify the amount due him, and on presentation of said certificate the auditor general shall draw his warrant on the State treasurer for the amount. The members of the board shall receive no per diem compensation for their services, but their traveling and other necessary expenses while employed on the business of the board shall be allowed and paid.—§ 1627.

Expenses of
board.

Appropriation.

7. SEC. 7. The sum of four thousand dollars per annum, or so much thereof as may be deemed necessary by the State board of health, is hereby appropriated to pay the salary of the secretary, meet the contingent expenses of the office of the secretary, and the expenses of the board, which shall not exceed the sum

* Section 11 of Act No. 170, Laws of 1877, provides for the printing and distribution of the Annual reports of the Board. § 20, Howell's Statutes.

hereby appropriated. Said expenses shall be certified and paid in the same manner as the salary of the secretary.—§ 1628.

LOCAL BOARDS TO REPORT TO STATE BOARD.

8. SEC. 8. It shall be the duty of the health physician, and also of the clerk of the local board of health in each township, city, and village in this State, at least once in each year, to report to the State board of health their proceedings, and such other facts required, on blanks, and in accordance with instructions received from said State board. They shall also make special reports whenever required to do so by the State board of health.—§ 1629.

Health physicians and clerks of local boards to report to State board.

STATE OFFICERS AND OTHERS TO FURNISH INFORMATION.

9. SEC. 9. In order to afford to this board better advantages for obtaining knowledge important to be incorporated with that collected through special investigations and from other sources, it shall be the duty of all officers of the State, the physicians of all mining or other incorporated companies, and the president or agent of any company chartered, organized, or transacting business under the laws of this State, so far as is practicable, to furnish to the State board of health any information bearing upon public health which may be requested by said board for the purpose of enabling it better to perform its duties of collecting and distributing useful knowledge on this subject.—§ 1630.

Duty of State officers, physicians, etc., to furnish information.

10. SEC. 10. The secretary of the State board of health may publish in his annual report such information, or statistics, as is provided for in this act.—§ 1631.—*As amended by Act 107 of 1883.*

Annual report of secretary.

11. SEC. 11. The secretary of State shall provide a suitable room for the meetings of the board at Lansing, and office room for its secretary.—§ 1632.

Room for use of board.

APPROPRIATION,—STATE BOARD TO COLLECT AND DISSEMINATE INFORMATION.

Act No. 241, Laws of 1881, entitled, "An act making an appropriation to enable the State board of health better to collect and disseminate information useful for the promotion of the public health."

12. SECTION 1. *The People of the State of Michigan enact,* That the sum of two thousand dollars per annum, in addition to the sum appropriated by act number eighty-one of public acts of session laws of eighteen hundred and seventy-three, is hereby appropriated out of the general fund, to enable the State board of health to purchase meteorological and other instruments, make special investigations, pay official expenses of members, and other expenses in attending and holding sanitary conventions in different parts of the State, and cause to be made and distributed documents in pamphlet form, and reprints of such articles in its annual report as the board may deem it for the

Appropriation for State board of health.

best interests of the public health to distribute about the State. Said expenses shall be audited and paid in accordance with sections six and seven of act number eighty-one of public acts of session laws of eighteen hundred and seventy-three.

Auditor general
to raise tax.

13. SEC. 2. The auditor general shall add to and incorporate with the taxes for each year the amount above appropriated, which, when collected, shall be passed to the credit of the proper fund.

STATE WEATHER SERVICE.

Act No. 2, Laws of 1887, is entitled: "An act making an appropriation for the equipment, support and expenses of a State weather service," and Act No. 48, Laws of 1889, is entitled: "An act making an appropriation for the support and expenses of a State weather service."

NOTE.—The "weather service" provided for in the above-mentioned acts, is for the benefit of agriculture and commerce, etc., the moneys are expended under the direction of the State Board of Agriculture, and the monthly summary of meteorological observations is published by the Secretary of State. While this weather service does not have any very apparent close relation to the work of the State Board of Health, much of its work is of such a nature that it is hoped that the State Board of Health may be able in time to utilize it in the interest of public health, as the board has for many years made use of reports by its own corps of meteorological observers, for whose compensation no provision has yet been made by the legislature.

EXAMINATION OF PLANS FOR BUILDINGS FOR CHARITABLE, PENAL, OR REFORMATORY INSTITUTIONS.

From Act No. 206, Laws of 1881, entitled, "An act to provide for the uniform regulation of certain State institutions, and to repeal section * * * " as amended by Act No. 86, Laws of 1889.

Plans for build-
ings, to whom
submitted.

14. SEC. 7. That before the board of any charitable, penal or reformatory institution shall determine on the plan of any building, or on any system of sewerage, ventilation, or heating, which has been authorized by the legislature to be constructed, such plan shall be submitted to the board of corrections and charities and the State board of health for examination and opinion thereon; and the board so submitting such plan shall, in its biennial report, show to what extent it was approved by the boards so examining them. * * * That it shall be the duty of said State boards to visit said penal, charitable and reformatory institutions, when necessary to make the examinations herein required, and their official expenses necessarily incurred shall be audited by the board of State auditors and paid from the general fund.—§ 418.

CONTINGENT APPROPRIATION.—PREVENTION OF THE INTRODUCTION AND SPREAD OF CHOLERA AND OTHER DANGEROUS COMMUNICABLE DISEASES.

Act No. 320, Laws of 1885, entitled, "An act to provide for the prevention of the introduction and spread of cholera and other dangerous communicable diseases."

If Governor
deem necessary
may draw
\$10,000, etc.

15. SECTION 1. *The People of the State of Michigan enact,* That whenever in the opinion of the governor it may be deemed necessary, he may draw from the general fund, on the warrant of the auditor general, not to exceed the sum of ten thousand dollars (\$10,000), to be used by the State board of health, to prevent the introduction or spread, in this State, of cholera or other communicable diseases dangerous to public health.

To be used by
board of health
to prevent
cholera, etc.

16. SEC. 2. At such ports or places, or on such lines of travel as there may be danger of the introduction into this State of cholera or other dangerous communicable diseases, the State board of health shall have power to establish such systems of inspection as may be practicable and needful to ascertain the presence of the infection of cholera or other dangerous communicable diseases in the persons of immigrants or travelers, in wearing apparel, baggage, or freight; to question on oath, without cost to the State or person so questioned, which oath a duly appointed inspector of the State board of health is hereby authorized to administer to the immigrant, traveler, or other person, as to the place from which the suspected person, baggage, or freight came, the time elapsed since his or its exposure to cholera or other dangerous disease, and on other subjects on which information is needed; and the State board of health shall have power to order such disinfection of baggage or other articles which are infected or liable to be infected, and to cause such isolation of persons or things infected or liable to be infected, as may be necessary for the public safety, by placing it or them in the care of the local board of health, or by other practical methods, to the end that the object of this act, expressed in its title, shall be fulfilled.

System of inspection to be established.

17. SEC. 3. It shall be the duty of the State board of health to frame and publish rules for the conduct of inspection under this act. Whoever shall willfully violate the rules of the State board of health made in pursuance of this act, shall on conviction be deemed guilty and punished as in cases of misdemeanor.

To establish rules.

Penalty for violation of rules.

PUBLIC SCHOOL TEXT-BOOKS ON PHYSIOLOGY AND HYGIENE.

Act No. 164, Laws of 1881, required that text books for use in public schools giving instruction in physiology and hygiene should receive the approval of the State board of health. Act No. 165, Laws of 1887, leaves out and thus repeals the requirement for examination of such books by the State board of health.

II.—LOCAL BOARDS OF HEALTH.

ORGANIZATION, POWERS, AND DUTIES.—NUISANCES, AND CAUSES OF SICKNESS, OFFENSIVE TRADES, COMMUNICABLE DISEASES, QUARANTINE, PUBLIC BUILDINGS, CEMETERIES.

Chapter 35, Revised Statutes of 1846, chapter 46, Compiled Laws of 1871, Howell's Statutes, entitled, "The preservation of public health; quarantine, nuisances, and offensive trades,"—when not otherwise stated.

ORGANIZATION OF TOWNSHIP BOARDS OF HEALTH.

18. (1692.) SECTION 1. In every township the township board* shall be the board of health. The supervisor shall be the president, and the township clerk shall be the clerk of said board. The clerk shall keep a record of the proceedings of the

Board of health.

*18. The organization of the township board is stated in sections 706 and 707 (sections 70 and 71 of chapter 12), Compiled Laws of 1871, as follows:—

board in a book to be provided for that purpose at the expense of the township.—*As amended by Act 56 of 1877.*—§ 1633.

* 18. Footnote continued:—

TOWNSHIP BOARD.

Who shall constitute township board.

18 a. (706) SEC. 70. The supervisor, the two justices of the peace whose term of office will soonest expire, and township clerk shall constitute the township board, any three of whom shall constitute a quorum for the transaction of business.—§ 744.

When quorum not present, one of remaining justices to act.

18 b. (707) SEC. 71. When, from any cause, there shall not be three of the officers constituting such board competent or able to act, one of the remaining justices, on being notified by any member of said board, shall meet with any members of the board, and shall have the same authority as the other members of the board.—§ 745.

NOTE: ON SECTIONS 706 AND 707, COMPILED LAWS OF 1871,—§ 744 AND § 745, HOWELL'S STATUTES.

When either of the members of the township board, as constituted under Sec. 706, Comp. Laws of 1871, is interested in the subject for consideration, he is not "competent or able to act" in the sense of Sec. 707; and such incompetency will justify the calling in of one of the remaining justices. Every special tribunal appointed by law is subject to the maxim, that no person can sit as a judge in any cause in which he is a party, or in which he is interested. Should the interested member act with the board upon any matter in which he is interested, the action of the board upon that subject would be illegal. *Stockwell v. Township Board of White Lake*, 22 Mich., 341. But this principle does not apply to the performance of official acts, pertaining to the public interest, in which he has no interest different from that of any other citizen. *Clement v. Everest*, 29 Mich., 19.

Section 708, Comp. Laws of 1871, provides for an annual meeting of the township board, as follows. §

Annual meeting of township board for auditing accounts, etc.

18 c. (708.) SEC. 72. The township board shall meet annually on the Tuesday next preceding the annual township meeting to be held in such township, for the purpose of auditing and settling all claims against the township; and they shall state on each account the amount allowed by them; and the amounts allowed by them shall be paid by the treasurer on the order of the board, signed by their clerk and countersigned by the chairman of the board.—§ 746.

16 Mich., 228-237.

The notes to Secs. (706), (707), and (708) are applicable both to the board of health and to the township board.

NOTES ON SEC. (708), C. L. OF 1871,—§ 746, HOWELL'S STATUTES.

See *Marathon v. Oregon*, 8 Mich., 372, 380. The powers of the board are special and limited, they can allow such claims only as are authorized by law. Where claims not so authorized have been allowed, payment of them should be withheld. *Miller v. Grandy*, 13 Mich., 540; *People v. Blackman*, 14 Mich., 336.

A township board acts judicially in the allowance of claims, and is protected from liability for its decisions in all cases where it has jurisdiction to pass upon claims presented for allowance. Generally the presentation of a demand, purporting to be a claim against the township, is sufficient to confer jurisdiction on the board to hear and determine it. If their authority to audit any claim is derived from some special law, or from some particular authority, the presentation of a demand under such act or authority, gives jurisdiction to determine whether the claim comes within the act or authority, and to allow or adjust it according to their judgment. The presence of the claimant before the board is not necessary to the allowance of his account. Nor is it necessary that the account should be sworn to, or be proved by evidence under oath. The board may act upon their own knowledge of the demand. If they are satisfied of its correctness, it is sufficient. *Wall v. Trumbull*, 16 Mich., 228. But the claim must be in writing; it cannot be presented by parol. *Same*, p. 253.

Payment of demands audited and allowed may be compelled by mandamus. *Marathon v. Oregon*, 8 Mich., 372, and cases cited at p. 379 of Howell. And this is the proper remedy for enforcing the payment of fixed and liquidated claims against a township, and not by suit upon the demand. *Same case*; also *People v. LaGrange*, 2 Mich., 187; *People v. Auditors of Wayne Co.*, 5 Mich., 223; *People v. Porter and Calkin*, 18 Mich., 101; *Dayton v. Rounds and Warren*, 27 Mich., 82; *McArthur v. Duncan*, 34 Mich., 27. After great and unreasonable delay in collecting township orders, they will not be enforced. *People v. Lincoln*, 41 Mich., 415.

ORGANIZATION, POWERS, AND DUTIES OF CITY AND VILLAGE BOARDS OF HEALTH—DUTIES OF INHABITANTS.

19. (1740.) SEC. 49. The mayor and aldermen of each incorporated city, and the president and council, or trustees, of each incorporated village in this State, in which no board of health is organized under its charter, shall have and exercise all the powers and perform all the duties of a board of health as provided in this chapter, within the limits of the cities or villages, respectively, of which they are such officers. The provisions of this chapter,* and the amendments thereto, shall, as far as applicable, apply to all cities and villages in this State, and all duties which are, by the provisions of this chapter, to be performed by the board of health of townships, or by the officers and inhabitants thereof, shall in like manner be performed by the board of health and the officers and inhabitants of such cities and villages, with a like penalty for the non-performance of such duties, excepting in cases where the charters of such cities and villages contain provisions inconsistent herewith.—*As amended by Act 145 of 1879.*—§ 1681.

Board of health in cities and villages, who to constitute.

Duties of officers and inhabitants of cities and villages.

EVERY BOARD OF HEALTH MUST APPOINT A HEALTH OFFICER.

20. (1693.) SEC. 2. Every board of health shall appoint and constantly have a health officer who shall be a well-educated physician and act as the sanitary adviser, and an executive officer of the board: *Provided*, That in townships where it is not practicable to secure the services of a well-educated and suitable physician, the board may appoint the supervisor or some other person as such health officer. The board of health shall establish his salary or other compensation,† and shall regulate and audit all fees and charges of persons employed by them in the execution of the health laws, and of their own regulations. Within thirty days after the annual township meeting in each year, the board of health shall meet for the transaction of business, and

Health officer.

Board may appoint supervisor, etc.

Salary.

Annual meeting.

Costs awarded against a township, or township officers, or the township board, in suits or proceedings prosecuted by or against them in their name of office, are a township charge, and are to be collected the same as other township charges, and not by execution. *Stockwell v. White Lake*, 22 Mich., 341. See *People v. Auditors of Wayne Co.*, 5 Mich., 223; *Dayton v. Rounds*, 27 Mich., 82; *McArthur v. Duncan*, 34 Mich., 27. But costs incurred by a township officer in proceedings instituted on his own behalf, and without any direction from the township board, to establish his right to office are not a charge against the township. *Scott v. Bingham*, 32 Mich., 492.

The electors cannot, by vote, at township meetings, audit private claims against the townships; nor can the legislature audit such claims. *People v. Onondaga*, 16 Mich., 254. Nor have boards of supervisors the power to establish claims in favor of their counties, against the townships. *Turck v. Wright*, 19 Mich., 351.

* Chapter 35 of Revised Statutes of 1846, or Chapter 46 (being consecutive sections 1692-1740) of Comp. Laws of 1871. The general laws for incorporation of cities and villages also impose board of health powers and duties on common councils of cities and the boards of trustees of villages organized under these laws. They also provide for the organization of a separate board of health by the council or trustees of such cities or villages. See, for cities, Chap. XIV. (especially Secs. 7 and 8), Act 178, of 1873, (Secs. 121 and 122 of this compilation); for villages, Secs. 48-55 (especially 54 and 55), Chap. VII., Act 62 of 1875, as amended by Act 245 of 1879 (Secs. 184 and 185 of this compilation). The special charters granted by the legislature either impose board of health powers and duties on the council or board of trustees, or provide for a separate board of health. Certain board of health powers, and duties of villages, organized by boards of supervisors under Act 168 of 1857, and its amendments, are stated in §§ 2999, 3005, 3008, 3009, and 3019 of Howell's Annotated Statutes.

† But the health officer cannot always collect his salary as it is established by the board of health. See *Coleman v. City of Cadillac*, 49 Mich., 322.

Name and address of health officer to be transmitted to secretary of State board of health.

Special meetings.

shall appoint or re-appoint a health officer, and shall immediately cause to be transmitted to the secretary of the State board of health at Lansing, the full name and postoffice address of such health officer, and a statement whether he is a physician, the supervisor, or some other person not a physician. A special meeting of the board may be called by the order of the president or of any two members of said board.—*As amended by Acts 56 of 1877, and 202 of 1881.*—§ 1634.

LOCAL OFFICERS MUST REPORT TO STATE BOARD.

From Act 81 of 1873.

Health physicians and clerks of local boards to report to State board.

21. SEC. 8. It shall be the duty of the health physician, and also of the clerk of the local board of health in each township, city, and village in this State, at least once in each year, to report to the State board of health their proceedings, and such other facts required, on blanks, and in accordance with instructions received from said State board. They shall also make special reports whenever required to do so by the State board of health.—§ 1629.

[Section 1 of Act 137 of 1883 (Sec. 48 of this compilation), requires the health officer, unless otherwise instructed by his board, on receipt of information of a case of small-pox, diphtheria, scarlet fever, or other communicable disease dangerous to the public health, in his township, city, or village, to keep the president of his own board and the secretary of the State board of health constantly informed respecting every outbreak of a disease dangerous to the public health, and of the facts so far as the same shall come to his knowledge, respecting sources of danger of any such diseased person or infected article being brought into or taken out of his township, city, or village.]

REGULATIONS OF NUISANCES, SOURCES OF FILTH, CAUSES OF SICKNESS, INFECTED ARTICLES AND PERSONS.

Regulations relating to causes of sickness, etc.

22. (1694.) SEC. 3. The board of health shall make such regulations respecting nuisances, sources of filth, and causes of sickness, within their respective townships, and on board of any vessels in their ports or harbors, as they shall judge necessary for the public health and safety; and if any person shall violate any such regulations, he shall forfeit a sum not exceeding one hundred dollars.—§ 1635.

Respecting articles capable of conveying contagion, etc.

23. (1695.) SEC. 4. The said board shall also make such regulations as they may deem necessary for the public health and safety, respecting any articles which are capable of containing or conveying any infection or contagion, or of creating any sickness, when such articles shall be brought into, or conveyed from, their township, or into or from any vessel; and if any person shall violate any such regulation, he shall forfeit a sum not exceeding one hundred dollars.—§ 1636.

NOTICE OF ALL REGULATIONS BY LOCAL BOARD OF HEALTH.

Notice of regulations, how published.

24. (1698.) SEC. 7. Notice shall be given by the board of health of all regulations made by them, by publishing the same in some newspaper of the township, if there be one published therein, and if not, then by posting them up in five public places

in such township; and such notice of said regulation shall be deemed legal notice to all persons.—§ 1639.

EXAMINATION AND ABATEMENT OF NUISANCES, SOURCES OF FILTH,
CAUSES OF SICKNESS.

25. (1699.) SEC. 8. The board of health shall examine into all nuisances, sources of filth and causes of sickness that may, in their opinion, be injurious to the health of the inhabitants within their township, or in any vessel within any harbor or port of such township; and the same shall destroy, remove, or prevent, as the case may require.—§ 1640.

Board to examine into nuisances, etc., and destroy, remove, or prevent the same.

26. (1700.) SEC. 9. Whenever any such nuisance, source of filth, or cause of sickness shall be found on private property, the board of health shall order the owner or occupant thereof, at his own expense, to remove the same within twenty-four hours; and if the owner or occupant shall neglect so to do, he shall forfeit a sum not exceeding one hundred dollars.—§ 1641.

Proceedings, if nuisance, etc., found on private property.

27. * (1701.) SEC. 10. If the owner or occupant shall not comply with such order of the board of health, such board may cause the said nuisance, source of filth, or cause of sickness, to be removed, and all expenses incurred thereby shall be paid by the said owner or occupant, or by such other person as shall have caused or permitted the same.—§ 1642.

When nuisance, etc., to be removed by board at expense of owner, etc.

28. † (1702.) SEC. 11. Whenever any person shall be convicted on an indictment for a common nuisance that may be injurious to the public health, the court may, in its discretion, order it to be removed or destroyed, at the expense of the defendant, under the direction of the board of health of the township where the nuisance is found; and the form of the warrant to the sheriff or other officer may be varied accordingly.—§ 1643.

Court may order nuisance removed in certain cases.

29. (1703.) SEC. 12. Whenever the board of health shall think it necessary for the preservation of the lives or health of the inhabitants to enter any building or vessel in their township, for the purpose of examining into and destroying, removing, or preventing any nuisance, source of filth, or cause of sickness, and shall be refused such entry, any member of the board may make complaint, under oath, to any justice of the peace of his county, whether such justice be a member of such board or not, stating the facts of the case, so far as he has knowledge thereof.—§ 1644.

Proceedings when admittance of board to building or vessel is refused.

* 27. Declaring a thing to be a nuisance does not make it so, if not so in fact, and an officer removing as a nuisance that which is innocent, cannot be justified.—*Van Horn v. People*, 28 Mich., 221, 226.

† 28. Property is not to be destroyed until its destruction is lawfully ascertained to be necessary in order to stop the nuisance, and then no more is to be destroyed than is thus determined to be needful to effect that object.—*Shepard v. The People*, 40 Mich., 487. See that case, also, as to what the information should allege in order to warrant the destruction of property. Judgment for the abatement of a nuisance should not be rendered unless there is a specific finding of a present state of things showing its necessity. And an information which does not allege that it is a continuing nuisance will not support such a judgment. Where an information for nuisance alleges that it arises from the use of things innocent in themselves, the case does not call for their destruction in order to effect an abatement, but for the discontinuance of the objectionable method of using them. *Messersmith v. People*, 46 Mich., 437. See *Crippen v. People*, 8 Mich., 117. See also foot-notes to clause Third, Sec. 1, Chap. XI., Act 178 of 1873 (Sec. 111 of this compilation).

Idem.

30. (1704.) SEC. 13. Such justice may thereupon issue a warrant directed to the sheriff or any constable of the county, commanding him to take sufficient aid, and being accompanied by any two or more members of said board of health, between the hours of sunrise and sunset, to repair to the place where such nuisance, source of filth, or cause of sickness complained of may be, and the same destroy, remove, or prevent, under the direction of such members of the board of health.—§ 1645.

CIRCUIT COURT HAS EQUITY JURISDICTION OVER SOME NUISANCES.*

From Chap. 112, Revised Statutes 1846, Chap. 199, Comp. Laws of 1871.

Equity jurisdiction in case of nuisances, etc.
Wask. Ch. 112.

31. (6377.) SEC. 5. The circuit court for any county shall have equity jurisdiction in all matters concerning nuisances, where there is not a plain, adequate, and complete remedy at law, and may grant injunctions to stay or prevent nuisances.—§ 7965.

PERMITS FOR REMOVAL OF NUISANCE, INFECTED ARTICLE, OR SICK PERSON.

Board may permit removal of infected articles, etc.

32. (1705.) SEC. 14. The board of health may grant permits for the removal of any nuisance, infected article, or sick person within the limits of their township, when they shall think it safe and proper to do so.—§ 1646.

PRIVIES AND WATER-CLOSETS IN TOWNSHIPS AND VILLAGES.

Act No. 136, Laws of 1881, entitled, "An act to enlarge the powers of boards of health of townships and villages in certain cases."

Powers of boards in townships and villages.

33. SECTION 1. *The People of the State of Michigan enact*, That boards of health in townships and villages are hereby empowered to make such rules and regulations in relation to the care and cleansing of privies and water-closets within such townships or villages as they may deem desirable for the preservation of the health of any of the inhabitants thereof, or such boards may declare any such privy or water-closet a nuisance, and the abatement thereof be by them ordered and enforced.—§ 1686.

Penalty for violation of requirements of board.

34. SEC. 2. Any violation of any rule or requirement of such board under this act shall be deemed to be a misdemeanor, and shall be punished by a fine not more than ten dollars or imprisonment in the county jail not more than ten days, or both such fine and imprisonment, in the discretion of the court.—§ 1686.

DISPOSAL OF DEAD ANIMALS.

Act No. 70, Laws of 1867, entitled, "An act to provide against nuisances."

Burial of dead animals.

35. (7734.) SECTION 1. *The People of the State of Michigan enact*, That if any person or persons shall put any dead animal or part of the carcass of any dead animal, into any lake, river, creek, pond, road, street, alley, lane, lot, field, meadow, or common, or in any place within one mile of the residence of any person or persons, except the same and every part thereof be buried at least two feet under ground, and if the owner or own-

Penalty of neglect.

* Relative to informations by the Attorney General, see *Atty. Gen. v. Evart Booming Co.*, 34 Mich., 472; also *Atty. Gen. v. Hane*, 50 Mich., 447.

ers thereof shall knowingly permit the same to remain in any of the aforesaid places, to the injury of the health, or to the annoyance of the citizens of this State, or any of them, every person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof shall forfeit and pay a sum not less than five dollars nor more than ten dollars, together with the costs of prosecution, and in default in the payment thereof, shall be imprisoned in the county jail of the county in which such conviction may be had, not exceeding ten days, to be imposed by any court of competent jurisdiction; and every twenty-four hours said owner may permit the same to remain after such conviction shall be deemed an additional offense against the provisions of this act, and upon conviction thereof shall forfeit and pay a further sum of not less than ten dollars and not more than thirty dollars, together with the costs of prosecution, to be recovered as aforesaid, and in default in the payment thereof, be imprisoned as aforesaid not more than thirty days, or be punished by both such fine and imprisonment, in the discretion of the court.

—§ 9323.

Additional
offense.

Penalty.

REGULATION OF OFFENSIVE TRADES.

36. (1737.) SEC. 46. The township board of every township, the president and trustees, or council, of every village, and the mayor and aldermen of every city, respectively, when they shall judge it necessary, shall, from time to time, assign certain places for the exercising of any trade or employment offensive to the inhabitants or dangerous to the public health; and they shall forbid the exercise thereof in places not so assigned; and all such assignments shall be entered in the records of the township, village, or city, and they may be revoked when the said township, village, or city officers may think proper.—§ 1678.

Places may be
assigned for
carrying on
offensive trades.

37. (1738.) SEC. 47. When any place or building so assigned shall become a nuisance by reason of offensive smells or exhalations proceeding therefrom, or shall become otherwise hurtful or dangerous to the neighborhood, or to travelers, and the same shall be made to appear on a trial, or the admission of the person exercising such trade or employment, before the circuit court for the county, upon a complaint made by the board of health, or by any other person, the said court may revoke such assignment, and prohibit the further use of such place, or building, for the exercise of either of the aforesaid trades or employments, and may cause such nuisance to be removed or prevented.—§ 1679.

When places
become a nuisance,
assignment may be
revoked, etc.

38.* (1739.) SEC. 48. Any person injured, either in his comfort or the enjoyment of his estate, by any such nuisance, may have an action on the case for the damages sustained thereby, in which action the defendants may plead the general issue and give any special matter in evidence.—§ 1680.*

Action on the
case for
damages.

* A nuisance may be both public and private, and there is sometimes a question whether it should be proceeded against as a public or as a private nuisance. For convenience of reference, the following provisions of law for abatement of a private nuisance are here inserted: [At foot of page 12.]

SLAUGHTER AND RENDERING HOUSES IN TOWNSHIPS TO BE DISTANT FROM HIGHWAYS.

From Act No. 232, Laws of 1879, entitled, "An act to amend chapter 35 of the revised statutes of 1846, being chapter 46 of the compiled laws of 1871, by adding two new sections thereto, to stand as sections 50 and 51, relating to offensive trades."

Slaughter-houses, etc., not to be kept within twenty rods of highway.

39. SEC. 50. No person shall keep or maintain any slaughter-house, slaughter-yard or slaughter-pen, or any other place for slaughtering, [butchering] or killing any animals, or rendering dead animals as a business, within twenty rods of any public highway within this State, or in any other place, except as provided in section forty-six of this chapter.—§ 1682.

Penalty.

40. SEC. 51. Any person offending against any of the provisions of the preceding section shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine of

Footnote continued from page 11:—

Mass., R. S.,
Ch. 106.

ACTION FOR PRIVATE NUISANCE.

Chap. 112, of Revised Statutes of 1846, or Chap. 199, Comp. Laws of 1871.

Judgement in
action for
nuisance,
11 Pick., 452.

38 a. (6373.) SECTION 1. In actions on the case for a private nuisance, when the plaintiff prevails, he shall, in addition to the usual judgment for damages and costs, also have judgment that the nuisance be abated and removed, unless the justice holding the circuit court at which any issue of fact joined therein shall be tried shall certify in the minutes of such trial, that the abatement thereof is unnecessary.—§ 7961.

Execution and
warrant in case
of judgment
that nuisance
be abated.

38 b. (6374.) SEC. 2. In case of a judgment that the nuisance be abated and removed, the plaintiff shall have execution in the common form for his damages and costs, and a separate warrant to the proper officer, requiring him to abate and remove the nuisance, at the expense of the defendant, in like manner as public and common nuisances are abated and removed.—§ 7962.

How warrant
may be stayed.

38 c. (6375.) SEC. 3. The court may, on the application of the defendant, order a stay of such warrant for such time as may be necessary, not exceeding six months, to give him an opportunity to remove the nuisance, upon his giving satisfactory security to do so within the time specified in the order.—§ 7963.

Expense of
removing
nuisance on
warrant, how
collected.

38 d. (6376.) SEC. 4. The expense of abating and removing the nuisance pursuant to such warrant, shall be collected by the officer in the same manner as damages and costs are collected upon execution, excepting that the materials of any buildings, fences, or other things that may be removed as a nuisance, may be sold by the officer, in like manner as goods are sold on execution for the payment of debts; and the officer may apply the proceeds of such sale to defray the expenses of the removal, and shall pay over the balance thereof, if any, to the defendant, upon demand; and if the proceeds of the sale are not sufficient to defray the said expenses, he shall collect the residue thereof as before provided.—§ 7964.

Equity jurisdic-
tion in case of
nuisance, etc.
Walk Ch. 112.

38 e. (6377.) SEC. 5. The circuit court for any county shall have equity jurisdiction in all matters concerning nuisances, where there is not a plain, adequate and complete remedy at law, and may grant injunctions to stay or prevent nuisances.—§ 7965.

not more than one hundred nor less than twenty dollars, and in default of the payment of such fine shall be imprisoned in the county jail of the proper county not more than ninety nor less than twenty days, in the discretion of the court: *Provided*, That the provisions of this act shall not apply within the limits of incorporated villages and cities.—§ 1683.

THE PREVENTION OF SMALL-POX.—FREE VACCINATION.

41. (1736.) SEC. 45. Every township may, at any meeting, make suitable provision for the inoculation of the inhabitants thereof, with the cow-pox, under the direction of the board of health or the health officer of the township, and they shall raise all necessary sums of money to defray the expenses of such inoculation, in the same manner that other township charges are defrayed.—§ 1677.

Inoculation
with cow-pox.

Act No. 146. Laws of 1879, entitled "An act to authorize boards of health of cities, villages, and townships to furnish vaccination to the inhabitants thereof."

42. SECTION 1. *The People of the State of Michigan enact*, That the board of health of each city, village, and township may, at any time, direct its health officer or health physician to offer vaccination, with bovine vaccine virus, to every child not previously vaccinated, and to all other persons who have not been vaccinated within the preceding five years, without cost to the persons [person] vaccinated, but at the expense of such city, village, or township, as the case may be.—§ 1685.

Board of health
authorized to
furnish vaccination.

INOCULATING WITH SMALL-POX.

43. (1728.) SEC. 37. If any person shall inoculate any other person, or inoculate himself, or suffer himself to be inoculated, with the small-pox, unless at some hospital licensed and authorized by law, he shall, for each offense, forfeit a sum not exceeding two hundred dollars.—§ 1669.

Penalty for
inoculating with
small-pox, ex-
cept at hospi-
tals.

NOTICES BY HOUSEHOLDERS AND PHYSICIANS, OF DISEASES DANGEROUS TO PUBLIC HEALTH.

44. (1734.) SEC. 43. Whenever any householder, hotelkeeper, keeper of a boarding house or tenant shall know, or shall be informed by a physician, or shall have reason to believe that any person in his family, hotel, boarding house or premises is taken sick with small-pox, cholera, diphtheria, scarlet fever, or any other disease dangerous to the public health, he shall immediately give notice in writing thereof to the health officer, the president, or the clerk of the board of health of the township, city or village in which he resides. Said notice shall state the name of the person sick, the name of the disease, if known, the name of the householder, hotelkeeper, keeper of boarding house or tenant giving the notice, and shall, by street and number, or otherwise, sufficiently designate the house in which he

Who to give
notice of
disease, etc.

Penalty for neglect, etc.

Proviso.

Duties of physicians in relation to.

Notice to be given by

What notice to contain.

Penalty for neglect.

Proviso.

Compensation.

resides or the room in which the sick person may be; and if he shall refuse or willfully neglect immediately to give such notice, he shall be deemed guilty of a misdemeanor, and upon conviction thereof he shall be punished by a fine of not exceeding one hundred dollars and the costs of prosecution; or, in default of payment thereof, by imprisonment not exceeding ninety days in the county jail, in the discretion of the court: * *Provided*, That such fine or imprisonment shall not be enforced if a physician in attendance has given to the health officer or other officer hereinbefore mentioned an immediate notice of said sick person and true name of the disease, in accordance with the requirements of this section.—§ 1675.—*As amended by Act 37, Laws of 1889.*

45. (1735.) SEC. 44. Whenever any physician shall know that any person whom he is called to visit, or who is brought to him for examination, is infected with small-pox, cholera, diphtheria, scarlet fever, or any other disease dangerous to the public health, he shall immediately give notice thereof to the health officer, the president, or the clerk of the board of health of the township, city, or village in which the sick person may be; and to the householder, hotelkeeper, keeper of a boarding house, or tenant within whose house or rooms the sick person may be. The notice to the officer of the board of health shall state the name of the disease, the name, age, and sex of the person sick; also the name of the physician giving the notice; and shall by street and number, or otherwise, sufficiently designate the house or room in which said sick person may be. And every physician and person acting as a physician, who shall refuse or neglect immediately to give such notice, shall forfeit for each such offense a sum not less than fifty nor more than one hundred dollars: * *Provided*, That this penalty shall not be enforced against a physician if another physician in attendance has given to the health officer, or other officer, hereinbefore mentioned, an immediate notice of said sick person, and the true name of the disease, in accordance with the requirements of this section.—§ 1676.—*As amended by Act 11 of 1883.*

46. SEC. 50. † [52.] For each complete notice in writing to an officer of the board of health, in full compliance with the preceding section, requiring from physicians, or other person, notices of diseases dangerous to the public health, the physician who gave the notice shall be entitled, on duly certifying that each notice was correct, and when the bill has been duly audited by the board of health, to receive from the township, city, or village, in which the notice was given, the sum of ten cents.—*Added by Act 11 of 1883.*

* Supervisors must prosecute for all forfeitures incurred under §§ 1675 and 1676; all township officers must give notice to Supervisors.—see §§ 8439, 8440 and 8441, Howell's Annotated Statutes, printed near the close of this compilation. Health officers of cities and villages must notify prosecuting attorney of all violations of §§ 1675 and 1676.—see § 1684 Howell's Annotated Statutes (Sec. 47 of this compilation). The prosecuting attorney must prosecute for all such forfeitures incurred within his county. See § 8442 Howell's Annotated Statutes (near the close of this compilation).

† Sec. 50 was added by Act No. 11, Laws of 1883. Act No. 232, Laws of 1879, added two sections (39 and 40 of this compilation) to this chapter to stand as Secs. 50 and 51; hence the section added in 1883 should have been numbered 52.

HEALTH OFFICER OF CITY AND OF VILLAGE TO NOTIFY PROSECUTING ATTORNEY OF A FAILURE TO REPORT A DANGEROUS DISEASE.

Act No. 157, Laws of 1879, entitled "An act relative to the duties of health officers in [of] cities and villages."

47. SECTION 1. *The People of the State of Michigan enact,* That it shall be the duty of the health officer of each village and city in this State, whenever he shall know, or have good reason to believe that any penalty or forfeiture has been incurred within his city or village, by reason of neglect to comply with section one thousand seven hundred and thirty-four or section one thousand seven hundred and thirty-five of the compiled laws of eighteen hundred and seventy-one, forthwith to give notice thereof, in writing, to the prosecuting attorney of his county, * which notice shall state as near as may be, the time of such neglect, the name of the person incurring the penalty or forfeiture, and as near as can be ascertained, the name or names of persons sick with a disease dangerous to the public health, and not reported as the law requires.—§ 1684.

Health officer to notify prosecuting attorney of all failures to report.

What notice to state.

DUTIES OF HEALTH OFFICERS ON OUTBREAK OF A DANGEROUS DISEASE.

Act No. 137, Laws of 1883, entitled "An act to specify certain duties of health officers and provide for compensation therefor, in townships, cities, and villages where the health officer is not otherwise instructed by the local board of health."

48. SECTION 1. *The People of the State of Michigan enact,* That whenever the health officer of any township, city, or village in this State shall receive reliable notice or shall otherwise have good reason to believe that there is within the township, city, or village of which he is the health officer, a case of small-pox, diphtheria, scarlet fever, or other communicable disease dangerous to the public health, it shall be the duty of said health officer, unless he is or shall have been instructed by the board of health, of which he is an executive officer, to do otherwise, immediately to investigate the subject, and in behalf of the board of health, of which he is an executive officer, to order the prompt and thorough isolation of those sick or infected with such disease, so long as there is danger of their communicating the disease to other persons; to order the prompt vaccination or isolation of persons who have been exposed to small-pox; to see that no person suffers for lack of nurses or other necessities because of isolation for the public good; to give public notice of infected places by placard on the premises, and otherwise if necessary; to promptly notify teachers or superintendents of schools concerning families in which are contagious diseases; to supervise funerals of persons dead from scarlet fever, diphtheria, small-pox, or other communicable disease which endangers the public health; to disinfect rooms, clothing, and premises, and all articles likely to be infected, before allowing their use by persons other than those in isolation; to keep the president of his own board of health, and the secretary of the State board of

Powers and duties of health officers in reference to diseases dangerous to public health.

* The prosecuting attorney must prosecute for all such forfeitures incurred within his county.—§ 844 Howell's Statutes, "Penalties and Forfeitures," of this compilation.

health constantly informed respecting every outbreak of a disease dangerous to the public health, and of the facts so far as the same shall come to his knowledge, respecting sources of danger of any such diseased person or infected article being brought into or taken out of the township, city, or village of which he is the health officer.*

Provisions to have force of regulation of local boards in certain cases.

49. SEC. 2. In the absence of regulations conflicting therewith, made and published by the local board of health, and still remaining in force, the provisions of section one of this act shall have the force of regulations made and published by the local board of health; and whoever shall knowingly violate the provisions of section one of this act, or the orders of the health officer made in accordance therewith, shall be deemed guilty of a misdemeanor, and upon conviction thereof he shall be punished by a fine not exceeding one hundred dollars, and the costs of prosecution, or in default of payment thereof, by imprisonment not exceeding ninety days in the county jail, in the discretion of the court.—*As amended by Act 34, Laws of 1889.*

Penalty for violation.

Compensation of health officer.

50. SEC. 3. In the fulfillment of the requirements of this act, the health officer, unless other provision shall have been made in accordance with law, shall be entitled to receive from the township, city, or village of which he is health officer, compensation at the rate of not less than two (2) dollars per day: *Provided*, That this section shall not be construed to conflict with any action by the local board of health, under section sixteen hundred and ninety-three, of the compiled laws of eighteen hundred and seventy-one, as amended by act number two hundred and two, of the laws of eighteen hundred and eighty-one.

Proviso.

HOSPITALS MAY BE ESTABLISHED FOR PERSONS INFECTED WITH SMALL-POX OR OTHER DANGEROUS DISEASE.

Hospitals for reception of persons having small-pox, etc.

51. (1726.) SEC. 35. The inhabitants of any township may establish within their township and be constantly provided with one or more hospitals for the reception of persons having the small-pox, or other disease which may be dangerous to the public health.—§ 1667.

HOSPITALS TO BE CONTROLLED BY BOARD OF HEALTH.†

By whom hospitals to be regulated, etc.

52. (1727.) SEC. 36. All such hospitals shall be subject to the orders and regulations of the board of health, or a committee appointed by such board for that purpose; but no such hospital shall be established within one hundred rods of any inhabited dwelling-house situated in an adjoining township, without the consent of such adjoining township.—§ 1668.

(§ 1669 Howell's Statutes, being (1728,) Compiled Laws of 1871, is on a preceding page, being Section 43 of this compilation.)

Physicians, etc., to be subject to regulations of board, etc.

53. (1729.) SEC. 38. When any hospital shall be so established, the physician attending the same, the persons inoculated

* For other duties of health officer, see Sec. 8, Act 81 of 1873, Sec. 8 of this compilation.
† § 1674, Howell's Statutes (Sec. 37 of this compilation), provides a penalty for violation of hospital regulations.

or sick therein, the nurses, attendants, and all persons who shall approach or come within the limits of the same, and all such furniture and other articles as shall be used or brought there, shall be subject to such regulations as shall be made by the board of health, or of the committee appointed for that purpose.—§ 1670.

BOARD OF HEALTH MUST PROVIDE HOSPITAL ON OUTBREAK OF SMALL-POX OR OTHER DANGEROUS DISEASE.

54. (1730.) SEC. 39. When the small-pox or any other disease dangerous to the public health shall break out in any township, the board of health shall immediately provide such hospital, or place of reception for the sick and infected, as they shall judge best for their accommodation and the safety of the inhabitants; and such hospitals and places of reception shall be subject to the regulations of the board of health, in the same manner as hereinbefore provided for established hospitals.—§ 1671.

When board of health to provide hospital.

REMOVAL OF INFECTED PERSONS TO HOSPITALS.

55. (1731.) SEC. 40. The board of health shall cause such sick or infected persons to be removed to such hospitals or places of reception, unless the condition of the sick person be such as not to admit of removal without danger to life; in which case the house or place where the sick shall remain shall be considered as a hospital to every purpose before mentioned, and all persons residing in or in any way concerned with the same, shall be subject to the regulations of the board of health, as before provided.—§ 1672.

When infected persons to be removed to hospital, etc.

CARE TO PREVENT SPREADING INFECTION—NOTICE OF INFECTED PLACES.

56. (1732.) SEC. 41. When the small-pox, or any other disease dangerous to the public health, is found to exist in any township, the board of health shall use all possible care to prevent the spreading of the infection, and to give public notice of infected places to travelers, by such means as in their judgment shall be most effectual for the common safety.—§ 1673.

Board to prevent the spread of dangerous disease.

HOSPITAL REGULATIONS, PENALTY FOR VIOLATING.

57. (1733.) SEC. 42. If any physician or other person in any of the hospitals or places of reception before mentioned, or who shall attend, approach, or be concerned with the same, shall violate any of the regulations lawfully made in relation thereto, either with respect to himself, or his or any other person's property, the person so offending shall for each offense, forfeit a sum not less than ten nor more than one hundred dollars.—§ 1674.

Penalty for violating regulations of hospitals.

PERMIT FOR REMOVAL OF SICK PERSONS OR INFECTED ARTICLES.

58. (1705.) SEC. 14. The board of health may grant permits for the removal of any nuisance, infected article, or sick person

Board may permit removal of infected articles, etc.

within the limits of their township, when they shall think it safe and proper so to do.—§ 1646.

REMOVAL AND CARE OF INFECTED PERSONS.

Board to make provision to prevent spread of small-pox, etc.

59. (1706.) SEC. 15. When any person coming from abroad or residing in any township within this State, shall be infected, or shall lately before have been infected, with the small-pox, or other sickness dangerous to the public health, the board of health of the township where such person may be shall make effectual provision in the manner in which they shall judge best for the safety of the inhabitants, by removing such sick or infected person to a separate house, if it can be done without danger to his health, and by providing nurses and other assistance and necessities, which shall be at the charge of the person himself, his parents, or other person who may be liable for his support, if able; otherwise, at the charge of the county to which he belongs.*—§ 1647.

Provision in case infected persons cannot be removed.

60. (1707.) SEC. 16. If any such infected person cannot be removed without danger to his health, the board of health shall make provision for him as directed in the preceding section, in the house in which he may be, and in such case they may cause the persons in the neighborhood to be removed, and may take such other measures as they may deem necessary for the safety of the inhabitants.—§ 1648.

INSPECTION AND RESTRAINT OF TRAVELERS FROM INFECTED DISTRICTS.†

Board may restrain travelers coming from infected districts.

61. (1708.) SEC. 17. The board of health of any township near to or bordering upon either of the neighboring States, may appoint, by writing under their hands, suitable persons to attend any places by which travelers may pass from infected places in other States; and the persons so appointed may examine such passengers as they may suspect of bringing with them any infection which may be dangerous to the public health, and, if need be, may restrain them from traveling until licensed thereto by the board of health of the township to which such persons may come; and any person coming from such infected place, who shall, without license as aforesaid, travel within this State, unless it be to travel by the most direct way to the State from

* When any expenses incurred under this section are chargeable to the county, and the amount due has been ascertained and fixed by the board of health, it is the duty of the board of supervisors to allow at once that amount, and to provide for its payment. They have no discretion in the matter further than to ascertain whether the patient, or those who may be liable for his support, are able to pay the expenses incurred under this section. *The People ex. rel. Bristow vs. Supervisor of Macomb county*, 3 Mich., 475. On expenses incurred in care of infected persons, see also § 1655, Howell's Statutes (Sec. 67 of this compilation). See also 51st Michigan, page 527, where it is held that the city is immediately responsible, and that "in providing that what is done shall be at the charge of the individual, it is not intended to exempt the public from immediate liability." See also 58th Michigan, page 451, where it is held that the board of supervisors must pass such accounts and can be compelled by mandamus to do so, that they cannot refuse on the ground that the patients were themselves able to pay or that sundry taxpayers considered the charges exorbitant.

† The following section from the "Act to establish a State public school for dependent and neglected children," though not belonging under the head "Local boards of health," is here inserted because of its relations to prevention and restriction of contagious diseases:—[At foot of page 19.]

whence he came, after he shall be cautioned to depart by the persons appointed as aforesaid, shall forfeit a sum not exceeding one hundred dollars.—§ 1649.

WARRANT FOR REMOVAL AND CARE OF INFECTED PERSON.

62. (1709.) SEC. 18. Any two justices of the peace may, if need be, make out a warrant under their hands, directed to the sheriff or any constable of the county, requiring him, under the direction of the board of health, to remove any person infected with contagious sickness, or to take possession of convenient houses and lodgings, and to provide nurses, attendants, and other necessities for the accommodation, safety, and relief of the sick.—§ 1650.

Removal of persons infected.

WARRANT FOR DETENTION AND DISINFECTION OF INFECTED BAGGAGE, CLOTHING, OR OTHER GOODS.

63. (1710.) SEC. 19. Whenever, on application of the board of health, it shall be made to appear to any justice of the peace that there is just cause to suspect that any baggage, clothing, or goods of any kind found within the township are infected with any disease which may be dangerous to the public health, such justice of the peace shall, by warrant under his hand, directed to the sheriff or any constable of the county, require him to take with him as many men as the said justice shall deem necessary to secure such baggage, clothing, or other goods, and to post said men as a guard over the house or place where such baggage, clothing, or other goods shall be lodged, which guard shall take effectual care to prevent any person removing or coming near to such baggage, clothing, or other goods, until due inquiry be made into the circumstances thereof.—§ 1651.

Infected baggage, clothing, and goods, how secured.

Footnote continued from page 18:—

PRECAUTION AGAINST INTRODUCTION OF CONTAGIOUS DISEASES TO THE STATE PUBLIC SCHOOL.

From Act 172 of 1871, as amended by Acts 144 of 1873, 58 of 1875, 145 of 1877, and 92 of 1881.

61a. SEC. 23. That whenever on [the] examination provided for in this act the judge of probate shall determine that the child is dependent on the public for support, he shall cause it to be examined by the county physician, if there be one, and if not, then by a respectable practicing physician, and shall in no case enter the order in his journal, showing the child is admissible to this school, unless the physician making such examination shall certify in writing, under oath, filed in said court, that the child examined by him is, in his opinion, of sound mind, and has no chronic or contagious disease, and in his opinion has not been exposed to any contagious disease within fifteen days previous to such examination before the judge of probate. That a copy of such certificate shall be attached to the other papers provided by this act, to accompany each child to this school.—§ 1983.—*Added by Act 145 of 1877.*

Examination of child by physician.

Impressing
houses, etc., for
keeping infected
goods.

64. (1711.) SEC. 20. The said justice may also, by the same warrant, if it shall appear to him necessary, require the said officer, under the direction of the board of health, to impress and take up convenient houses or stores for the safe keeping of such baggage, clothing, or other goods; and the board of health may cause them to be removed to such houses or stores, or to be otherwise detained, until they shall, in the opinion of said board of health, be freed from infection.—§ 1652.

Power of officer
executing
warrant.

65. (1712.) SEC. 21. Such officer, in the execution of such warrant, shall, if need be, break open any house, shop, or any other place mentioned in said warrant, where such baggage, clothing, or other goods shall be; and he may require such aid as shall be necessary to effect the execution of the warrant; and all persons shall, at the command of any such officer, under a penalty not exceeding ten dollars, assist in the execution of the warrant, if able to do so.—§ 1653.

EXPENSE OF SECURING, TRANSPORTING, AND PURIFYING INFECTED BAGGAGE, CLOTHING, OR OTHER GOODS.

Charges to be
paid by owner.

66. (1713.) SEC. 22. The charges of securing such baggage, clothing, or other goods, and of transporting and purifying the same, shall be paid by the owner or owners thereof, at such rates and prices as shall be determined by the board of health.*—§ 1654.

EXPENSE FOR HOUSES, STORES, LODGINGS, NECESSARIES, NURSES, OR ATTENDANTS.

Compensation
for houses,
nurses, etc.

67. (1714.) SEC. 23. Whenever the sheriff or other officer shall take possession of any houses, stores, lodgings, or other necessities, or shall employ any nurse or attendants, as provided in this chapter, the several parties interested shall be entitled to a just compensation therefor, to be paid by the county in which such person or property shall have been so employed or taken possession of.*—§ 1655.

INFECTED PERSONS IN COMMON JAILS.

When prisoners
attacked with
dangerous
disease may be
removed.

68. (1715.) SEC. 24. Whenever any person confined in any common jail shall be attacked with any disease, which, in the opinion of the physician of the board of health, or of such other physicians as they may consult, shall be considered dangerous to the safety and health of the other prisoners, or of the inhabitants of the township, the board of health shall, by their order in writing, direct the removal of such person to some hospital or other place of safety, there to be provided for and securely kept, so as to prevent his escape, until their further orders; and if such prisoner shall recover from the disease, he shall be returned to such jail.—§ 1656.

* See also, on expenses, §§ 1654, 1666, and 1647, Howell's Statutes, (Secs. 66, 78, and 50 of this compilation).

69. (1716.) SEC. 25. If the person so removed shall have been committed by order of any court, or under any judicial process, the order for his removal, or a copy thereof, attested by the presiding member of said board of health, shall be returned by him, with the doings thereon, into the office of the clerk of the circuit court for the county; and no prisoner, removed as aforesaid, shall be considered as thereby having committed an escape.—§ 1657.

Prisoners removed, to be returned, and not to be considered as having escaped.

CONTAGIOUS DISEASES IN OR NEAR COUNTY POORHOUSES.

70. (1717.) SEC. 26. Whenever any pestilence or contagious disease shall break out in any county poorhouse in this State, or in the vicinity thereof, and the physician to such county poorhouse, or such other physician as the superintendents may consult, shall certify that such pestilence or disease is likely to endanger the health of the persons supported at such poorhouse, the superintendents of such county poorhouse shall cause the persons there supported, or any of them, to be removed to some other suitable place in the same county, and there to be maintained and provided for at the expense of the county, with all necessary medical attendance and care, until they can safely be returned to such poorhouse, or otherwise discharged.—§ 1658.

When superintendents of poor may remove paupers from poorhouses.

QUARANTINE.

71. (1718.) SEC. 27. Any township may establish a quarantine ground in any suitable place, either within or without its own limits: *Provided*, That if such place be without its limits, the assent of the township within whose limits it may be established shall be first obtained therefor.—§ 1659.

Township quarantine.

Proviso.

72. (1719.) SEC. 28. Any two or more townships may, at their joint expense, establish a quarantine ground for their joint use, either within or without their own limits: *Provided*, That if such place shall be without their limits, they shall first obtain the assent of the township within whose limits the same may be.—§ 1660.

Quarantine for two or more townships.

Proviso.

73. (1720.) SEC. 29. The board of health in each township in this State bordering upon Lake Michigan, Lake Superior, Lake Huron, Lake St. Clair, or Lake Erie, or upon any of the principal rivers or straits connecting together any of the said lakes, or bordering upon any navigable waters uniting with any of the said lakes, rivers or straits, may from time to time establish the quarantine to be performed by all vessels arriving within the limits of such townships, and may make such quarantine regulations as they shall judge necessary for the health and safety of the inhabitants.—§ 1661.

Quarantine in townships bordering on certain lakes, rivers, etc.

74. (1721.) SEC. 30. The quarantine regulations so established shall extend to all persons, and all goods and effects, arriving in such vessels, and to all persons who may visit or go on board of the same.—§ 1662.

Quarantine regulations to extend to persons and goods in vessels.

Penalty for violating quarantine regulations.

75. (1722.) SEC. 31. The said quarantine regulations, after notice shall have been given in the manner before provided in this chapter,* shall be observed and complied with by all persons; and any person who shall violate any such regulations shall forfeit a sum not less than five dollars and not more than five hundred dollars.—§ 1663.

Vessels in certain cases to be removed to quarantine ground, etc.

76. (1723.) SEC. 32. The board of health in each township bordering upon any of the lakes, rivers, straits, or other navigable waters hereinbefore mentioned, may at all times cause any vessel arriving within the limits of the township, when such vessel or cargo thereof shall, in their opinion, be foul or infected, so as to endanger the public health, to be removed to the quarantine ground, and to be thoroughly purified at the expense of the owners, consignees, or persons in possession of the same; and they may also cause all persons arriving in or going on board of such infected vessel, or handling such infected cargo, to be removed to any hospital under the care of the said board of health, there to remain under their orders.—§ 1664.

Master, etc., to answer on oath in regard to infections.

77. (1724.) SEC. 33. If any master, seaman, or passenger, belonging to any vessel, on board of which any infection may then be, or may have lately been, or which may have been at, or which may have come from, any port or place where any infectious disease prevails, that may endanger the public health, shall refuse to answer on oath, to be administered by any member of such board, such questions as may be asked him, relating to such infection or disease, by any member of the board of health of the township to which such vessel may come, such master, seaman, or passenger, so refusing, shall forfeit a sum not exceeding two hundred dollars; and in case he shall not pay such sum, he shall suffer six months' imprisonment.—§ 1665.

EXPENSES OF QUARANTINE.

Expenses, by whom to be paid.

78. (1725.) SEC. 34. All expenses incurred on account of any person, vessel, or goods, under any quarantine regulations, shall be paid by such person, or by the owner of such vessel or goods, respectively.†—§ 1666.

PROTECTION OF INMATES OF HOTELS FROM DANGER BY FIRE.

Act No. 182, Laws of 1877, entitled "An act for the protection of guests in hotels from danger by fire."

Landlords to provide fire extinguishers, keep night watch, etc.

79. SECTION 1. *The People of the State of Michigan enact,* That it shall be the duty of all owners or keepers of hotels or public houses more than two stories high to provide such hotel [hotels] or public house [houses] with a sufficient number of fire extinguishers and a suitable fire alarm that can be heard in all parts of the house, and to keep a competent night-watch during every night guests are lodged within such hotel or public house; and

* In § 1639 Howell's Statutes (Sec. 24 of this compilation).

† See also §§ 1654 and 1655, Howell's Statutes (Secs. 66 and 67 of this compilation).

they shall keep all halls and stairways well lighted all night; and at the head of each flight of stairs a red light, and no other red lights shall be used in said hotels.—§ 2091.

80. SEC. 2. It shall be the duty of the township board, the board of trustees of every village, and the common council of every city in which is located any hotel more than two stories high, to appoint a committee of three competent persons, one of whom shall be the chief of the fire department or the fire warden in all places having such officers, whose duty it shall be to visit and examine all such hotels within the township, village, or city in which they are appointed, and to report to said board or council as soon as practicable such recommendations as they may deem proper for the protection of guests from danger from fire.—§ 2092.

Appointment and duties of committee.

81. SEC. 3. It shall be the duty of [the] township or village board or city council, on receiving such report, to cause all needful alterations and additions or provisions necessary for the safety of guests from fire to be made within sixty days, and cause a notice to be served on the owner or keeper of such hotel, stating the alterations and additions or provisions to be made, either by ropes furnished the sleeping rooms of the hotels, or by ladders and such other means as they may think best to secure the safety of the guests; and all such expense shall be paid by the owner thereof. And if any owner or keeper of such hotel shall neglect or refuse to comply with such requirements within the time and in the manner specified in said notice, he or they shall be liable to a fine of not less than twenty-five dollars and not more than one hundred dollars for each month that he or they shall fail to comply with this act; and all fines accruing under this act shall be collected in the same manner as is now provided by law, and shall go to the use of the library of the township, village, or city where collected.—§ 2093.

Duty of boards on receipt of report of committee.

Fine for neglect to comply with requirements of board.

82. SEC. 4. It shall be the duty of the township board, the president and directors of any village, and mayor and common council of any city, to examine or cause to be examined at least once in each and every year all such hotels within their respective corporations; and it shall be their duty to enforce or cause to be enforced the provisions of this act. *Provided*, That the provisions of this act shall not apply to hotels having less than thirty rooms used for guests.—§ 2094.

Annual examination of hotels.

Proviso.

FIRE ESCAPES FROM HOTELS, BOARDING AND LODGING HOUSES, AND OTHER PLACES OF ASSEMBLY.

Act No. 170, Laws of 1883, entitled, "An act to provide for the construction of fire escapes from hotels, boarding and lodging houses, also to afford the necessary escape from fire in business places, and in buildings used for public and private assemblages."

83. SECTION 1. *The People of the State of Michigan enact*, That it shall be the duty of the owner, proprietor, lessee, or keeper of any hotel, or public inn, more than two stories in height, to provide suitable ladders, or other safe fire escapes, from each

Owners, etc., of hotels, etc., to provide fire escapes.

and every story above the ground floor of such hotel or public inn, such ladders or fire escapes to be always accessible from each floor above the second story and each room thereon of such building.

Owners, etc., of
factories, etc.,
to provide fire
escapes.

84. SEC. 2. It shall be the duty of the owner, proprietor, or lessee of any building, factory, mill, warehouse, or workshop, more than two stories in height, where male or female help is employed above the second story in such building, to provide suitable ladders, or such other fire escapes as may be deemed necessary, for the escape of such help or other persons occupying such building, in cases of fire, as provided in section four of this act.

Owners, etc., of
opera-houses,
etc., to provide
fire escapes.

85. SEC. 3. It shall be the duty of every owner, proprietor, lessee, or manager of any opera-house, theater, public hall, place of amusement or entertainment, or any place used for public or private assemblages, to provide all necessary and accessible fire escapes for the safety of the patrons and occupants of such places, in accordance with the provisions of section four of this act.

Duties of board
of building
inspectors in
reference to.

86. SEC. 4. It shall be the duty of the board of building inspectors, created by act number two hundred and twenty-six, of the public acts of eighteen hundred and seventy-nine, entitled, "An act to provide for the safety of persons attending public assemblies," as amended by act number forty-one, of the public acts of eighteen hundred and eighty-one, * to examine from time to time, at least once in each year, within their respective jurisdictions, any and all such places mentioned in the preceding sections of this act, and to submit without delay to their respective township or village boards, or common council, as the case may be, such recommendations, in addition to the provisions and requirements of this act, as they may deem proper and necessary for the protection against fire, and the escape therefrom, in the several places named in the preceding sections of this act.

Duties of
township
boards, etc.

87. SEC. 5. It shall be the duty of the township or village boards, or common council, as the case may be, on receiving such report, to direct all such needful alterations and additions to such places as recommended for the safety and escape from fire to be made within such reasonable time as they may determine, by causing a written notice to be served on the owner, proprietor, manager, lessee, or keeper of such several places, stating therein fully the alterations and additions to be made, and the time for their completion. The expenses incurred in providing such ladders or fire escapes, or in making such needful alterations or additions, shall be paid by the owner of such places.

Penalty for
neglect or
refusal of
owners, etc.

88. SEC. 6. If any such owner, proprietor, manager, lessee, or keeper of any such places named in this act shall neglect or refuse to comply with any such requirements within the time and in the manner specified in such notice, he or they shall be

liable to a fine of not less than twenty-five dollars, or more than one hundred dollars, for each and every month that he or they shall fail to comply with the provisions of this act, and all fines accruing, under and by virtue of this act, shall be collected in such manner as is now provided by law.

SAFETY OF PERSONS AT PUBLIC ASSEMBLIES.

Act No. 226, laws of 1879, entitled, "An act to provide for the safety of persons attending public assemblies," as amended by act No. 41, laws of 1881.

89. *SECTION 1. *The People of the State of Michigan enact,* That it shall be unlawful for any hall, theater, opera-house, church, school-house, or building of any kind whatsoever, in any city or incorporated village, to be used for the assemblage of people unless the same is provided with ample means for the safe and speedy egress of the persons therein assembled, in case of alarm.—§ 2096.

Public halls, etc., to be provided with means for safety.

90. SEC. 2. That in all cities and incorporated villages it shall be unlawful for any person or persons, society, corporation, or individual whatsoever, who may be the owner or owners of or have the control of any hall, theater, opera-house, church, school-house, or building of whatsoever kind, to use or permit the same to be used for schools or public assemblages of people, unless said person or persons, society, corporation, or individual shall have, from the authorities hereinafter designated, of the city or incorporated village in which said hall, theater, opera-house, church, school-house or building is situated, a certificate in writing, certifying that they have examined the said hall, theater, opera-house, church, school-house, or building, as the case may be, and that the same is well and sufficiently provided with means of speedy and safe egress for public assemblages in cases of danger or sudden alarm: *Provided,* That the doors in the halls of passage ways of all such buildings, leading from the assembly room to the ground shall be made to open outward, in case the proper examining officers shall so order.—§ 2097.

Proprietors of theaters, halls, etc., to have certificate of examination.

Provide.

91. SEC. 3. It shall be the duty of the mayor, by and with consent of the common council of every city, and of the president, by and with consent of the board of trustees or village council, of every incorporated village in this State, on or before the first day of May in each year, to appoint in and for their respective cities and villages, three competent mechanics, builders, or architects, to be known as the board of building inspectors of such cities and villages, respectively, who shall hold and execute the duties of their offices until their successors shall be appointed and enter upon the duties of their offices; and whose duty it shall be to make inspection of buildings and structures in their respective cities and villages as herein provided; and in every township in this State, the township board is hereby constituted the board of building inspectors in such township, and shall perform and exercise the powers and duties of building inspect-

Appointment of building inspectors.

Term of office.

Duty of inspectors.

ors as herein provided.—*As amended by Act 41 of 1881.*—§ 2098.

Duty of
inspectors
when requested
to inspect
buildings, etc.

92. SEC. 4. Whenever any board of building inspectors, or any two of them, shall be requested to inspect any hall, opera-house, school-house, church, stand, platform, or other building or structure of any kind, used or intended to be used, or occupied for schools, or by public assemblages, or by any gatherings or assemblages of people in their city, village or township, it shall be their duty forthwith to make a thorough inspection and examination of such building, stand, or other structure, with reference to its condition, strength and safety for use or occupation for schools, or by any public meetings, gatherings or assemblages of people, and for the safe and speedy egress of the persons therein and thereon assembled, in case of any sudden danger or alarm; and if such board or any two of them shall find the same to be sufficiently strong and substantial, and amply safe for the use, meeting and assembling therein or thereon, of so many persons as the size and capacity of such building or structure will permit at one and the same time, and for the safe and speedy egress of persons therein and thereon assembled, in case of sudden danger or alarm, they shall so certify in writing under their hands, and deliver such certificate to the person or persons requesting such examination, and shall state therein for what length of time such building or structure may be deemed safe for the purposes aforesaid. Said inspectors shall keep a record of all buildings and structures inspected by them, with the dates of such inspections, and copies of all certificates granted by them as aforesaid: *Provided*, That if any owner or owners, or person or persons, having control of any hall or other building, or structures herein above mentioned located in any city or incorporated village, shall feel himself or themselves aggrieved by the decision of said authorities, he or they may appeal therefrom to the city council or to the village board of trustees, or village council, who shall give such person or persons a full and fair hearing, and shall sustain or reverse the action of said board of examiners, and from such decision there shall be no appeal: *And provided further*, That the common council, village council, board of trustees, or township board as the case may be, may require a re-examination and inspection of any such buildings or structures, whenever, from proper information, or otherwise, they shall deem such re-examination and inspection necessary.—*As amended by Act 41 of 1881.*—§ 2099.

Inspectors to
keep a record.

Proviso.

Buildings, etc.,
not to be used
until inspected.

93. SEC. 5. No such buildings or structures as are mentioned in sections two and four of this act, shall be used or occupied for any purposes, meetings or assemblages, in those sections mentioned or referred to, until after the same shall have been inspected and certified to be safe, as in said sections provided. And if any owner, occupant, lessee, manager, person or persons, officer or officers, in charge of, or having the management or control of any such building or structure, shall permit or allow

Penalty for
using building
before examina-
tion.

the same to be used or occupied for any of the purposes or by any such meetings, gatherings, or assemblages of people as are mentioned or referred to in this act, unless such buildings or structure shall have been first examined and inspected and certified as herein provided, to be sufficient and safe for such purposes, meetings and assemblages, or shall allow such buildings or structure to be so used or occupied after the time within which the same may be deemed safe, according to such certificate, then and in every such case, every such owner, occupant, lessee, manager, person, or officer in charge of, or having the management or control of any such building or structure, so permitting, allowing, or consenting to any such use or occupation, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than one hundred nor more than five hundred dollars, or by imprisonment in the State house of correction not less than ninety days, nor more than one year, or by both such fine and imprisonment, in the discretion of the court.—*As amended by Act 41, of 1881.*—§ 2100.

94. SEC. 6. If any owner of such building or structure as aforesaid, or any other person, shall procure or aid in procuring the granting of any such certificate as is mentioned in said section four, by means of any deceit, misrepresentation, or concealment of any defects in any such building or structure, or if any building inspector shall falsely, negligently, or collusively grant or sign any such certificate as is provided for in said section four, then each and every person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished in the same manner as provided in section five of this act.—*As amended by Act 41 of 1881.*—§ 2101.

Penalty for
procuring
certificate by
deceit, etc.

95. SEC. 7. Each building inspector shall be entitled to receive for each day he shall be actually employed in inspecting any building under the provision of this act, to be paid by the owner or person requesting such inspection and examination, such sum as may be fixed by the common council, village council, board of trustees, or township board, of any city, village, or township, respectively.—*As amended by Act 41 of 1881.*—§ 2102.

Pay of
inspectors.

NOTE.—More on this subject is to be found under the head VII.—Safety of Persons in Manufacturing Establishments, Mines, etc., in a subsequent part of this compilation.

CEMETERIES, BURIAL AND OTHER DISPOSAL OF THE DEAD.*

96. † (1696.) SEC. 5. The said board shall also make all regulations which they may deem necessary for the interment of the dead, and respecting burying-grounds, for their township;

Duty of board
as to the
purchase of
burying
grounds.

* By § 793 of Howell's Annotated Statutes, when a township is divided, or when part of the territory of a township is annexed to another township, a cemetery or burying-ground belonging to the township divided or from which territory is detached, belongs to the township within which it is situated after the division or change of boundary. By Sec. 3 of Act No. 38, Laws of 1881, when land is detached from a city or township and attached to a city or township, a cemetery or burying-ground situated on the detached land and belonging before the change of boundary to the city or township, belongs after the change of boundary to the city or township within which it is then situated.

† 96. On power of township board of health in locating a cemetery, see *Upjohn v. Board of Health of Richland Township*, 46 Mich., 542.

and it shall also be the duty of said board to purchase in each surveyed township so much land for burying-grounds as shall be necessary for burying the dead of such township, provided suitable grounds therefor can be found and procured within the township, and if not, they shall then provide such grounds in the nearest adjoining township where such suitable grounds can be procured.—*As amended by Act 142 of 1859.*—§ 1637.

Board to hold
lands in trust.

To be fenced.

Expenses, how
provided for.

Proviso.

Proviso.

97. SEC. 6. The board of health of the township for which such burying-ground shall be procured, and their successors in office, shall hold the fee of such land in trust for such township; and they shall keep the same, or so much thereof as shall be necessary, surrounded with a good and substantial fence; the expense of the purchase of such lands, and of fencing and regulating the same, to be certified to the town board by the board of health, and by the town board provided for as a part of the contingent expenses of the township: *Provided, however,* That the board of health may, whenever they think it desirable, sell and convey single or family burial lots in said township burying-ground to such person or persons as may desire to procure the same, and apply the proceeds thereof towards the purchase or improvement of said grounds, certifying the amount of all such sales and expenditures to the township board, as above provided: *Provided further,* That before said board of health shall sell or offer to sell any lot or lots as above provided, they shall cause said burying-ground to be laid out in such form as they may choose, and cause two maps thereof to be made, which maps shall accurately describe the lands belonging to such burying-grounds, its boundaries and location, with the lots or subdivisions named or numbered thereon, and also their size, situation, and extent, with the width, extent, and location of all the streets, alleys, or walks in such burying-ground, which maps shall be prepared under the supervision and direction of the health officer and clerk of said board of health, and certified by them to be a correct map of the said burying-ground. One of said maps shall be filed with the clerk of said board of health and the other with the register of deeds of the county in which such burying-ground is situated.—§ 1637.—*As amended by Act 78, Laws of 1885.*

TAXING OF CEMETERIES AND CEMETERY PROPERTY.

From Act 195, Laws of 1880, entitled, "An act for the assessment of property and the levy of taxes thereon, and for the collection of taxes heretofore or hereinafter levied." Paragraph four of Section 3, is as follows:

Cemeteries, etc.

Proviso.

98. *Fourth,* All property of cemetery associations and lands used exclusively as burial grounds, and the rights of burial therein and the tombs and monuments therein, while in use for that purpose: *Provided,* That the stock of associations organized and carried on for private gain, and all tombs and vaults built within any burying grounds and kept for rent for the purpose of private gain or profit, shall be assessed as personal property.

BURIAL OF DECEASED UNITED STATES' SOLDIERS, SAILORS, AND MARINES.

Act 33, Laws of 1887, entitled, "An act to authorize the board of supervisors of any county in this State to purchase lots in any cemetery or burial place for deceased soldiers, sailors and marines."

99. SEC. 1. *The People of the State of Michigan enact*, That it shall be lawful for the board of supervisors of any county in this State to purchase one or more lots in any cemetery or burial place, for deceased soldiers, sailors and marines, who have served in the army of the United States in the late war of the rebellion. Lawful for board of supervisors to purchase lots, etc.

100. SEC. 2. The title to such lots in any such cemeteries shall be vested in such county or in such incorporated post of the Grand Army of the Republic, as the board of supervisors may designate, such title to be held by such post of the Grand Army of the Republic, and the title to such lots in any such cemeteries shall revert to the county when such post of the Grand Army of the Republic shall cease to be a legal corporation. Title, in whom vested.

Act 155, Laws of 1887, entitled, "An act to incorporate the Grand Army of the Republic, Department of Michigan, and subordinate posts of the Grand Army of the Republic." The last part of Sec. 7 of this act is as follows:

101. And any such corporation organized under this act may take, purchase, hold and own suitable lots or parcels of ground as may be convenient for the purposes of a cemetery, and make all lawful rules and regulations for the disposition of lots therein and the burial of the dead: *Provided*, This act shall not be construed to [affect] effect any municipal regulation in regard to cemeteries: *And provided further*, That any such corporation may join with any public corporation in the creation of any such cemetery, or division of any existing cemetery, but in case of such joint agreement, such cemetery, after the dissolution of the said corporation, shall revert to and become the property of, or subject to the control of, any such public corporation, to be maintained by it in perpetuity as a distinct Grand Army division of such cemetery. May acquire cemeteries, etc.
Provido.
Further proviso.

USE OF FIRE-ARMS IN CEMETERIES—ENTERING CEMETERIES.

From same Act,—No. 12, Laws of 1869.

102. (3421.) SEC. 14. No person shall use fire-arms upon the grounds of any cemetery owned and inclosed by any such corporation, nor hunt game therein. No person shall enter into such inclosed cemetery by climbing or leaping over or through any fence or wall around the same, nor direct or cause any animal to enter therein in any such manner. Any person offending against any of the provisions of this section shall be punished by a fine not exceeding fifty dollars, or by imprisonment not exceeding three months, or by both, in the discretion of the court.—*As amended by Act 218 of 1875.*—§ 4776. Use of fire-arms prohibited.
Penalty.

ENLARGING CEMETERIES.

From Act No. 12, Laws of 1869, entitled, "An act to authorize and encourage the formation of corporations to establish rural cemeteries, and to provide for the care and maintenance thereof."

Relative to
enlarging the
limits of
cemetery.

Application to
circuit judge for
jury to deter-
mine compen-
sation, etc.

103. SEC. 17. Whenever the board of directors of said corporation, the board of health of any township, or the common council, board of health, or board of trustees, of any city or village shall deem it to be desirable and necessary to enlarge the limits of any cemetery which has been or may be hereafter established in the manner provided by law, and such board of directors, board of health, board of trustees, or common council shall be unable to agree with the owner or owners of the land which such board of directors, board of health, board of trustees, or common council desire to include within the limits of the cemetery to be enlarged, as to the compensation to be paid therefor, or in case such board of directors, board of health, board of trustees, or common council shall, by reason of any imperfection in the title to said land, arising either from a break in the chain of title, tax sale, mortgages, levies, or any other cause be unable to procure a perfect, unencumbered title in fee simple to said land, such board of directors, board of health, board of trustees, or common council shall authorize one or more of its members to apply to the circuit judge in whose circuit such cemetery shall be situated, for a jury to ascertain and determine the just compensation to be made for the real estate required by such cemetery, and the necessity for using the same, which application shall be in writing, and shall describe the real estate desired for enlarging such cemetery as accurately as is required in a conveyance of real estate.—*Added by act 219 of 1875.*—§ 4778.

VACATING CEMETERIES IN CITIES AND VILLAGES.

From Act No. 164, Laws of 1871, entitled, "An act to provide for vacating cemetery plats and cemetery grounds in the limits of incorporated cities and villages."

Circuit court in
chancery may
vacate ceme-
teries.

104. (3423.) SECTION 1. *The People of the State of Michigan enact,* That whenever the trustees of any incorporated village, or the common council of any city, shall, by resolution adopted by them, determine that the dead bodies buried in any public cemetery located in such city or village should be removed therefrom, for the reason that such cemetery shall have become commons, or shall impede the growth of any such city or village, or shall endanger the health of the people living in the immediate vicinity thereof, the circuit court in chancery of the county in which such cemetery is located is hereby authorized to vacate the same, or any part thereof, on petition made to such court as hereinafter provided.—§ 4790.

Re-interment.

105. (3426.) SEC. 4. That when any cemetery shall be vacated as provided in this act, the said trustees, or common council shall cause all the dead bodies and remains buried in such cemetery to be re-interred in the cemetery of such city or village, if they have one, and if not, then in some suitable cemetery not more than six miles from the nearest corporate limits of said city or village, in a prudent, careful, and respectful manner, and shall cause to be removed and again erected over the proper remains, all permanent fences around graves and lots, all tomb-

stones and monuments, with as little injury as the case will admit: *Provided*, That no removal of said bodies and remains shall be made during the months of June, July, August, or September. Such removal, and the costs of the proceedings under this act shall be at the expense of and paid by the city or village in which such cemetery is located.—§ 4793. Proviso.
Expenses.

SALE OF CEMETERIES AND OTHER REAL ESTATE BY BOARDS OF HEALTH.

Act No. 215, Laws of 1861, entitled, "An act to authorize boards of health to dispose of real estate," as amended by Act No. 152, Laws of 1877.

106. (1741.) SECTION 1. *The People of the State of Michigan enact*, That any board of health of this State may sell and convey any real estate, the fee of which is vested in them: *Provided*, That no real estate shall be sold by virtue of this act which is or has been in actual use as a cemetery or burial ground, unless the same shall be sold by an order of the circuit court upon the petition of the board of health of the township in which the burial ground is situated.—*As amended by Act 152 of 1877.*—§ 1687. Sale of real estate by board of health.

FORWARDING DEAD BODIES FOR DISSECTION.

Act No. 186, Laws of 1867, entitled, "An act to authorize dissection in certain cases, for the advancement of science," as amended by Acts No. 113 of 1871, 135 of 1873, 16 of 1881, and 83 of 1885.

107. (2110.) SECTION 1. Any member of either of the following boards, and any of the following named officers or persons, to wit: The board of health of any city, village, or township, the common council of any city, board of trustees of any village, any board, or officer having the direction, management, charge, or control in whole, or in part, of any prison, house of correction, work-house, jail, or lock-up, founded or supported in whole or in part at public expense, having in his or their possession or control, the dead body of any person not claimed by any relative or legal representative, or the county superintendent of the poor, keepers of poor-houses and alms-houses, any physician or other person in charge of any poor-house or alms-house or charitable institution, sheriff or coroners, having in his or their possession or control the dead body of any person not claimed by any relative, personal friend, or legal representative, as herein-after provided, and which may be required to be buried at public expense, or the expense of any one of such public institutions, or the dead body of any convict who died in prison under sentence for murder or attempt to murder, shall deliver such dead body or bodies within thirty-six hours after death, or after he or they shall become possessed thereof, to the express or railway company at the nearest railway station, placed in a plain coffin, and enclosed in a strong box, securely fastened, and plainly directed to the "Demonstrator of Anatomy, of the University of Michigan, Ann Arbor, Michigan," excepting only the dead bodies of such persons as shall have died from some infectious disease. And such boards, common councils, officers, or other persons making Certain boards and officers to deliver certain bodies to the demonstrator of anatomy of the University.

Mode of sending.

Notice to consignee, etc.

Amount to be paid for body.

Proviso.

How bodies to be used and disposed of.

Record of matters for identity.

Proviso; notice to relatives.

Penalty for violation of act.

such shipment, shall take the usual shipping receipt for such package, and shall notify the consignee of such shipment, by letter, mailed on the day the package is so delivered as aforesaid, and shall also enclose in such letter, a statement giving, as nearly as can be ascertained, the name, age, residence, and cause of death of such deceased person, and the name and postoffice address of the known relative or relatives of such deceased person, whose body has been shipped as aforesaid; and also a statement of the costs and expenses which have been incurred in the procuring of the coffin, box, preparation of the body for shipment, and shipping the same, and upon the receipt of said consignment, the said demonstrator of anatomy of the University of Michigan, shall immediately forward to such officer, board, council, or institution or person, or persons making such shipment, or incurring such expenses, the amount thereof, not exceeding in any case the sum of fifteen dollars: *Provided*, Such dead body shall not be so shipped or delivered as aforesaid, if it shall be requested in good faith, for interment, by any relative before the same shall be shipped as aforesaid; and in case the dead body of any person so delivered or shipped as aforesaid, be subsequently claimed or demanded of said demonstrator of anatomy, or of any other person or institution, into whose possession, or under whose control it may have been placed, by virtue of the provisions of this law, by any relative or legal representative of such deceased person, for private interment, it shall be given up to such claimant, even after the same shall have been interred as hereinafter provided. Such bodies shall be used only for the purposes hereinafter mentioned, and shall then, in all cases, be interred in some suitable place kept for that purpose, and a correct record shall be kept of every such body; and all matters by which such body may be identified, coming to the knowledge of the person or officer at any time in charge of such bodies, shall be faithfully recorded at length in a book to be kept for such purposes, to the end that the same may be at any time traced and recovered by the friends and relatives of such deceased person. *And provided further*, That the institution, board, council, officer, or person aforesaid, in charge of any such body as aforesaid, shall, immediately after the death of such person, notify, if possible, by telegraph, or otherwise by letter, one or more of the nearest known relatives of such deceased person, of the death of such person; and in no case shall the body of any such deceased person be delivered or shipped as aforesaid, until after the expiration of twenty-four hours from death. And every individual, officer, or party violating any of the provisions of this section, shall be deemed guilty of a misdemeanor.—§ 2284.—*As amended by Act 83, Laws of 1885.**

* Relative to this act the attorney general wrote as follows:—[At foot of page 33.]

108. (2111.) SEC. 2. The bodies so delivered, or shipped as aforesaid, shall be used for the advancement of anatomical science in this State and in the following institutions of learning only, viz.: The university of Michigan, Detroit medical college, and Michigan college of medicine. And said bodies shall be distributed to and among the same equitably, and in the order in which they are received, and the number assigned to each by said demonstrator of anatomy shall be proportional to that of its students in actual attendance. And each of said institutions shall pay quarterly to said demonstrator its ratable proportion of the expenses borne and incurred under this act: *Provided, however,* That said demonstrator of anatomy, upon the receipt of every body, under and by virtue of the provisions of this act, shall cause the same to be embalmed or put in a state of preservation, and shall not permit the same to be delivered to either of said institutions for the purpose of dissection, until the same shall have been in his possession at least ten days. And it shall be the duty of said demonstrator of anatomy, upon the receipt of every body, to immediately notify the relatives of such deceased person, if known, of the receipt of such body, either by mail or telegraph, as he may deem best, and that said body will be preserved intact, for the space of ten days, in which time such relative will be entitled to said body for the purpose of private interment, upon payment of the expenses already incurred. And if the relatives or legal representatives of such deceased person shall request said body for the purpose of interment, and shall pay said expenses, said demonstrator shall deliver to such relative or legal representative, the said body, together with the said coffin and box enclosing the same. But in case said body shall not be requested by such relatives until after the same shall have been applied to the purposes intended, the remains thereof, together with the coffin and box aforesaid, shall be delivered without charge: *Provided,* That the university of Michigan, Detroit medical college, and Michigan college of medicine aforesaid, and each and every other medical institution shall not receive into their possession any bodies procured in this State other than those provided for by the provisions of this act, and every individual or party violating this provision shall be deemed guilty of a misdemeanor.—*As amended by Act 16 of 1881.*—§ 2285.

How bodies to be used and distributed.

Bodies to be embalmed.

Notice to relatives.

When to be delivered to relatives.

Proviso.

Footnote continued from page 32:—

STATE OF MICHIGAN,
ATTORNEY GENERAL'S OFFICE, }
LANSING, April 1, 1890.

To the Hon. Board of Regents of the University of Michigan, Ann Arbor, Mich.

GENTLEMEN:—In reply to your communication asking for a construction of Act No. 138, of the Session Laws of 1875, as subsequently amended, permit me to say that in my opinion it is the duty of the board and officers named in said act, to deliver the bodies therein specified for shipment, to the Demonstrator of Anatomy, of the University of Michigan, in all cases, unless the body shall be requested by a relative or legal representative in good faith for burial at *private expense*. No request for burial at public expense or at the expense of the institution from which the body is shipped, should prevent the shipment.

Very truly yours,

B. W. HUSTON,
Attorney General.

Bodies must not be sold to be taken out of State, etc.

Penalty for violating provisions of act.

Permission to possess.

109. (2112.) SEC. 3. No such dead body shall be sold or delivered to any person to be taken out of the State, nor shall any such dead body be shipped to any person or place out of the State, or be used within the State for any purpose except for the prosecution of anatomical science. Any person violating any of the provisions of this act shall be punished by a fine of not less than fifty, or more than one hundred dollars, or by imprisonment in the county jail not less than one or more than three months, or by both such fine and imprisonment, at the discretion of the court.—*As amended by Act 138 of 1875.*—§ 2286.

110. (2113.) SEC. 4. Any practicing physician or surgeon of this State, or any medical student under the authority of such physician or surgeon, may have in his possession human dead bodies, or the parts thereof, lawfully obtained, for the purposes of anatomical inquiry or dissection.—§ 2287.

DUTIES OF LOCAL BOARDS OF HEALTH CONCERNING DISEASES OF ANIMALS.

The duties of all local boards of health to immediately investigate reported contagious or infectious diseases in domestic animals, and to establish temporary quarantine are specified in Section 214, Chapter V., of this compilation.

III.—CITIES AND VILLAGES: SANITARY PROVISIONS IN THE GENERAL LAWS FOR THEIR INCORPORATION.*

CITIES.

From Act No. 178, Laws of 1873, entitled "An act for the incorporation of cities."

FROM CHAPTER XI.—GENERAL POWERS OF CITY CORPORATIONS.†

Powers and authority, and exercise thereof.

111. SECTION 1. Every city incorporated under the provisions of this act, shall, in addition to such other powers as are herein conferred, have the general powers and authority in this chapter mentioned; and the council may pass such ordinances in relation thereto, and for the exercise of the same, as they may deem proper, viz.:

* * * * *

To abate nuisances.

Third, To prevent injury or annoyance from anything dangerous, offensive, or unhealthy; to prohibit and remove anything tending to cause or promote disease; to prevent and abate nuisances, and to punish those occasioning them, or neglecting or

* On incorporation of cities and villages under general laws, see *Shumway v. Bennett*, 29 Mich., 451. See note on city and village corporations, pages 48-49.

† To make these powers effectual, appropriate ordinances providing for and regulating their exercise must be enacted. *Jackson v. People*, 9 Mich., 111, 121. Where a general power to legislate over a subject is given to a subordinate political corporation, its legislation must conform as far as practicable to the legislation of the State upon the same subject matter. No new and extraordinary remedies unknown to the legislation of the State, or to the common law, can be provided for the suppression of an evil unless the authority to provide such remedies is expressly given, and all ordinances and by-laws must be reasonable. *Witch v. Stowell*, 2 Doug., 321. See *Slaughter v. People*, 2 Doug., 323, note. And where the statute specifically enumerates various powers which the council may render effectual by means of penal prosecutions, the enumeration is an implied exclusion of the right to impose penalties in other cases.—*Grand Rapids v. Hughes*, 15 Mich., 54. A municipal corporation can exercise only those powers granted to it expressly or by necessary implication.—*Detroit v. Blackeby*, 21 Mich., 84, 115.

refusing to abate, discontinue, or remove the same; and generally to determine and declare what shall be deemed nuisances.*

* * * * *

Seventh, To regulate, prohibit, and suppress ale, beer, and porter houses, and all places of resort for tippling and intemperance, and to punish the keepers thereof, and all persons assisting in carrying on the business thereof; and to require all such places to be closed on the Sabbath day, and upon such other days and during such hours of every night as the council shall prescribe†;

To regulate ale-houses, etc.

Eighth, To prohibit and prevent the selling or giving of any spirituous, fermented, or intoxicating liquors to any drunkard or intemperate person, minor, or apprentice, and to punish any person so doing;

To prevent sale, etc., of liquors to minors, etc.

* * * * *

Eighteenth, To provide for and regulate the inspection of meats, poultry, fish, butter, cheese, lard, vegetables, flour, meat, and other provisions;

Inspection of certain provisions.

* * * * *

Twenty-second, To regulate the construction, repair, and use of vaults, cisterns, areas, hydrants, pumps, sewers, and gutters;

Vaults, cisterns, etc.

* * * * *

Twenty-fifth, To provide for clearing the rivers, ponds, and streams of the city, and the races connected therewith, of all drift-wood and noxious matter; to prohibit and prevent the depositing therein of any filth or other matter tending to render the waters thereof impure, unwholesome, and offensive;

To preserve purity of streams, etc.

Twenty-sixth, To compel the owner or occupant of any grocery, tallow-chandler shop, soap or candle factory, butcher shop or stall, slaughter-house, stable, barn, privy, sewer, or other offensive, nauseous, or unwholesome place, or house, to cleanse, remove, or abate the same whenever the council shall deem it necessary for the health, comfort, or convenience of the inhabitants of said city;

Relative to certain shops and offensive places.

Twenty-seventh, To regulate the keeping, selling, and using of gunpowder, fire-crackers and fire-works, and other combustible materials, and the exhibition of fire-works, and the dis-

Keeping and selling of gunpowder, etc.

* Obstructions in streets are not necessarily nuisances. Whether they are so or not is a question of fact. *People v. Carpenter*, 1 Mich., 273, 289, 290. To make an obstruction in a street an indictable offense, it must injuriously affect some public right, some right or use in which the public at large have a common interest as distinguished from a mere individual or private right. If it affects the rights of an individual or of the adjacent owners only, they have their remedy by private action and not by indictment.—*People v. Jackson*, 7 Mich., 432; *Messersmidt v. People*, 46 Mich., 437.

As to nuisances, declaring what shall be deemed such, their abatement and punishment, see *Welch v. Stowell*, 2 Doug., 332. Declaring a thing to be a nuisance does not make it so, if it is not a nuisance in fact.—*Horn v. People*, 26 Mich., 221, 226; *St. Johns v. McFurlan*, 33 Mich., 72. Whatever is permitted by competent authority cannot be treated as a nuisance.—*G. R. & I. R. Co. v. Heisel*, 38 Mich., 62; *Hawkins v. Sanders*, 45 Mich., 491.

In abating nuisances property is not to be destroyed, until its destruction is lawfully ascertained to be necessary in order to stop the nuisance.—*Shepard v. People*, 40 Mich., 487. See also footnotes to § 1943, Howell's Statutes; Sec. 28 of this compilation.

† In the exercise of its police power, the State has full power to prohibit under penalties, the exercise of any trade or employment which is found to be hazardous or injurious to its citizens and destructive of the best interests of society; and that without providing compensation to those upon whom the prohibition operates.—*People v. Hawley*, 3 Mich., 342.

charge of fire-arms, and to restrain the making or lighting of fires in the streets and other open spaces in the city*;

To regulate
drains, cellars,
etc.

Twenty-eighth. To direct and regulate the construction of cellars, slips, barns, private drains, sinks, and privies; to compel the owner or occupant to fill up, drain, cleanse, alter, relay, or repair the same, or to cause the same to be done by some proper officer of the corporation, and to assess the expenses thereof on the lot or premises having such cellar, slip, barn, private drain, sink, or privy thereon.

* * * * *

Relative to
census.

Thirty-third. To provide for taking a census of the inhabitants of the city, whenever the council shall see fit; and to direct and regulate the same. * * * * * —§ 2555.

Crossing of
streets by rail-
roads.

112. SEC. 5. The council of any city shall have authority to permit any railroad company to lay its track, and operate its road with steam locomotives, in or across the public streets, highways, or alleys of the city, as the council may deem expedient, upon such terms and conditions, and subject to such regulations, to be observed by the company, as the council may prescribe; and to prohibit the laying of such track, or the operating of any such road, except upon such terms and conditions.—§ 2559.

Regulations
with regard to
railroads and
running of
trains.

113. SEC. 6. The council shall have power to provide for and change the location and grade of street crossings of any railroad track; and to compel any railroad company to raise or lower their railroad track, to conform to street grades which may be established by the city from time to time; and to construct street crossings in such manner, and with such protection to persons crossing thereat, as the council may require; and to keep them in repair; also, to require and compel railroad companies to keep flagmen or watchmen at all railroad crossings of streets, and to give warning of the approach and passage of trains thereat, and to light such crossings during the night; to regulate and prescribe the speed of all locomotive and railroad trains within the city; but such speed shall not be required to be less than four miles per hour; and to impose a fine of not less than five nor more than fifty dollars, upon the company, and upon any engineer or conductor, violating any ordinance regulating the speed of trains.—§ 2560.

Idem.

114. SEC. 7. The council shall have power to require and compel any railroad company, and any street railway company, to make, keep open and in repair, such ditches, drains, sewers, and culverts along and under, or across their railroad tracks, as may be necessary to drain their grounds and right of way properly, and in such manner as the council shall direct; and so that the natural drainage of adjacent property shall not be impeded. If any such railroad company shall neglect to perform any such requirement, according to the directions of the council, the council may cause the work to be done at the expense of such company, and the amount of such expense may be collected at

* See also section 8, chapter XXIX. of this act, section 157 of this compilation.

the suit of the city against the company, in a civil action, before any court having jurisdiction of the cause.—§ 2561.

CHAPTER XIV.—PUBLIC HEALTH.—Page 305 of *Laws of 1873.*

115. SECTION 1. The council of any city may enact all such ordinances as may be deemed necessary for the preservation and protection of the health of the inhabitants thereof, and to prevent the introduction of malignant, infectious, or contagious diseases within the city, or within one mile thereof; and for the removal of persons having such diseases, or who, from exposure thereto or otherwise may be suspected or believed to be liable to communicate the same, either beyond the city limits or to such hospital or place of treatment within the city as the council may prescribe, or the public safety may require.*—§ 2572.

Provisions for protection of.

116. SEC. 2. The council shall have power to prevent and remove or abate all nuisances dangerous to life or health within the city; and may require any person, corporation, or company causing such nuisance, and the owner or occupant of any lot or premises upon or in which any such nuisance or cause of disease may be found, to remove or abate the same, upon such notice, and within such time, and in such manner as the council may by ordinance or resolution direct.†—§ 2573.

Abatement of nuisances dangerous to health.

117. SEC. 3. If any cellar, vault, lot, sewer, drain, place, or premises within the city shall be damp, unwholesome, offensive, or filthy, or be covered during any portion of the year with stagnant or impure water, or shall be in such condition as to produce unwholesome or offensive exhalations, the council may cause the same to be drained, filled up, cleaned, amended, or purified; or may require the owner, or occupant, or person in charge of such lot, premises, or place, to perform such duty; and may require the owner or occupant of any building, fence or structure which may be ruinous, or liable to fall and injure persons or property, to pull down or remove the same; or the council may cause the same to be done by the proper officers of the city.—§ 2574.

Cleaning or draining of unwholesome places.

Removal of dangerous structures.

118. SEC. 4. If any person, corporation, or company shall neglect to remove or abate any nuisance, or to perform any requirement made by or in accordance with any ordinance or resolution of the council, or by the board of health of the city, for the protection of the health of the inhabitants, and if any expense shall be incurred by the city in removing or abating such nuisance, or in causing such duty or requirement to be performed, such expense may be recovered by the city in an action of debt or assumpsit against such person, corporation, or company. And in all cases where the city shall incur any expense for draining, filling, cleansing or purifying any lot, place, or premises, or for removing any unsafe building or structure, or for removing or abating any nuisance found upon any such

Collection of expenses of removals, etc., by city in cases of neglect.

* See Sec. 6 of this chapter; also, on hospitals, and removal of infected persons, §§ 1667-1674, 1647 and 1648, *Howell's Statutes*; Secs. 43, 51-57, and 59 and 60 of this compilation.

† On abatement of nuisances see Secs. 22-35 of this compilation, and notes, pp. 8-11.

lot or premises, the council may, in addition to all other remedies provided for the recovery of such expense, charge the same or such part thereof as they shall deem proper, upon the lot or premises upon or on account of which such expense was incurred, or from which such nuisance was removed or abated, and cause the same to be assessed upon such lot or premises and collected as a special assessment.—§ 2575.

Assignment of location for carrying on offensive or dangerous business.

119. SEC. 5. The council, when they shall deem it necessary, may from time to time assign, by ordinance, certain places within the city for the exercising of any trade or employment offensive to the inhabitants or dangerous to the public health; and may forbid the exercise thereof in places not so assigned; and may change or revoke such assignments at pleasure; and whenever a business carried on in any place so assigned, or in any other place in the city, shall become hurtful and dangerous to the health of the neighborhood, the council may prohibit the further exercise of such business or employment at such place.*—§ 2576.

Establishment of hospitals and detention of persons having contagious diseases.

120. SEC. 6. The council may purchase the necessary lands, and erect thereon, or otherwise provide, one or more hospitals, either within or without the city limits, and provide for the appointment of the necessary officers, attendants or employes, for the care and management thereof, and for the care and treatment therein of such sick and diseased persons as to the council or board of health of the city shall seem proper; and, by direction of the council or board of health, persons having any malignant, infectious, or contagious disease, may be removed to such hospital, and there detained and treated, when the public safety may so require; and the council may provide such restraints and punishments as may be necessary to prevent any such person from departing from such hospital until duly discharged.†—§ 2577.

Council vested with powers as boards of health.

121. SEC. 7. The council of any city incorporated under this act shall also have and exercise within and for the city, all the powers and authority conferred upon boards of health by chapter forty-six of the compiled laws of eighteen hundred and seventy-one, so far as the same are applicable and consistent with this act; and they may enact such ordinance as may be proper for regulating the proceedings and mode of exercising such powers and authority.‡—§ 2578.

Establishment of boards of health and their authority.

122. SEC. 8. The council when deemed necessary may establish a board of health for the city, and appoint the necessary officers thereof, and provide rules for its government, and invest it with such power and authority as may be necessary for the protection and preservation of the health of the city; and in addition thereto the board shall have and exercise all the powers

* See also §§ 1678-1680, Howell's Statutes; (36-38 of this compilation).

† See also §§ 1667-1674, 1647 and 1648, Howell's Statutes; also section 2 of chapter XX., of this act, p. 40; and section 1 of this chapter.

‡ For chapter 46, Compiled Laws of 1871, and sections related thereto, see pages 5-34. See also § 1681, Howell's and note, page 7; also *Shepard v. People*, 40 Mich., 487; and *People v. Supervisors of Macomb county*, 3 Mich., 475.

and authority conferred on boards of health by the chapter of the compiled laws referred to in the preceding section, so far as they may be exercised consistently with the provisions of this act. And the council may prescribe penalties for the violation of any lawful order, rule, or regulation made by the board of health or any officers thereof.—§ 2579.

FROM CHAPTER XV.—CEMETERIES.*—Page 308, *Laws of 1873*.

123. SECTION 1. Any city may acquire, hold, and own such cemetery or public burial place or places, either within or without the limits of the corporation, as in the opinion of the council shall be necessary for the public welfare and suitable for the convenience of the inhabitants. And may prohibit the interment of the dead within the city, or may limit such interments therein to such cemetery or burial place as the council may prescribe; and the council may cause any bodies buried within the city in violation of any rule or ordinance made in respect to such burials, to be taken up and buried elsewhere.—§ 2580.

Acquisition and regulation as to interments, etc.

FROM CHAPTER XVII.—HARBORS, WHARVES, AND HARBOR-MASTERS.—Page 311.

124. SEC. 4. The council shall have authority to provide by ordinance for the preservation of the purity of the waters of any harbor, river, or other waters within the city, and within one-half of a mile from the corporate boundaries thereof; to prohibit and punish the casting or depositing therein of any filth, logs, floating matter, or any injurious thing; to control and regulate the anchorage, moorage, and management of all boats, water-craft, and floats within the jurisdiction of the city; to prescribe the mode and speed of entering and leaving the harbor, and of coming to and departing from the docks, wharves, and landings, by boats, water-craft, and floats, and to regulate and prescribe, by such ordinances or through a harbor-master or other officer, such location for any boat, craft, vessel, or float, and such changes of station in, and use of the harbor as may be required to promote order therein, and the safety and convenience of all such boats, craft, vessels, and floats; and generally to enact and enforce such ordinances and regulations not inconsistent with the laws of the United States and of this State, as in the opinion of the council shall be most conducive to the orderly, safe, and convenient use and occupancy of the harbor, navigable waters, wharves, docks, piers, and landing places within the city.—§ 2594.

Provisions for purity of water in harbor, etc.

And control of all boats, vessels, etc., in harbor.

FROM CHAPTER XIX.—MARKETS.—Page 314, *Laws of 1873*.

125. SEC. 2. The council may adopt and enforce such rules and regulations as may be necessary to prevent fraud, and to preserve order in the markets; and may authorize the immediate seizure, arrest, and removal from the market, of any person violating its regulations, together with any articles in his or their possession; and may authorize the seizure and destruction of

Rules to prevent fraud, etc., and to preserve order.

* See also cemeteries, burial, enlarging, vacating, sale, etc., pp. 27-31; also see Sec. 2, chapter XX., of this act, p. 40.

tainted or unsound meats, or other provisions exposed for sale therein.—§ 2599.

FROM CHAPTER XX.—PUBLIC BUILDINGS, GROUNDS, AND PARKS.—Page 314.

Of hospitals,
work-houses,
water-works,
etc., outside
city limits.

126. SEC. 2. When the council shall deem it for the public interest, grounds and buildings for city prisons, work-houses, hospitals, pest houses, cemeteries, water-works, and other necessary public uses, may be purchased, erected, and maintained beyond the corporate limits of the city*; and in such cases the council shall have authority to enforce beyond the city limits, and over such lands, buildings, and property, in the same manner and to the same extent as if they were situated within the city, all such ordinances and police regulations as may be necessary for the care and protection thereof, and for the management and control of the persons kept or confined in such prisons, work-houses, or hospitals.—§ 2601.

CHAPTER XXI.—SEWERS, DRAINS, AND WATER-COURSES.†—Page 315, 1873.

Establishment
and construction.

127. SECTION 1. The council of any city may establish, construct, and maintain sewers and drains whenever and wherever necessary,‡ and of such dimensions and materials, and under such regulations as they may deem proper for the drainage of the city; and private property, or the use thereof, may be taken therefor in the manner prescribed in this act for taking such property for

* A city may be authorized to purchase and hold lands beyond its corporate limits for parks and other appropriate city purposes, but such power can be exercised only by authority and permission from the State. *Mayor v. Park Commissioners*, 44 Mich., 602.

† NOTE TO CHAPTER XXI.

The powers granted to construct sewers involve the exercise of discretion on the part of the city authorities, and are to be employed as well for sanitary purposes as for drainage for the benefit of the public at large, and not for the private convenience and advantage of individuals. The city owes no legal duty or obligation to individuals in the construction of sewers, or in their maintenance or repair; nor is it under any obligation to provide drainage for their private property. Nor is a city liable for damages arising from the insufficiency or defective construction of a public sewer, when such damages result directly to the party injured, from his use of the same for his private convenience. So held, where a party constructed a private drain from his lot to a public sewer, through which the water flowed back and flooded his premises.—*Dermont v. Mayor*, 4 Mich., 435. But if a sewer is so constructed as to flood private premises with water, which otherwise would not invade them the act is in the nature of a trespass, and the city is liable for the damage. A city charter cannot give authority to appropriate the freehold of a citizen without compensation by flooding it so as to interfere with his possession.—*Ashley v. Port Huron*, 35 Mich., 296; *Detroit v. Beckman*, 34 Mich., 125, 127. And if a city creates a nuisance by cutting ditches in such a way as to cast and maintain water upon private premises, it will be liable for its continuance.—*Pennoyer v. Saginaw*, 8 Mich., 334. The construction of sewers involves considerations different from those pertaining merely to surface drainage. They may be constructed for the convenience of the inhabitants of a particular locality, and without reference to the improvement of the surface or to the protection of health.—*Warren v. Grand Haven*, 30 Mich., 24, 29. A city's sewers, unlike its streets or highways, are the private property of the corporation, in which the outside public have no interest. The power to construct them under the public streets is a special legislative grant to the city for private city purposes, and must be so exercised as not unnecessarily to interfere with the rights of the public in the streets; and all needful measures must be taken to guard against accidents to persons lawfully using the highway at the time, otherwise the city will be liable for any damages resulting from negligence or want of care in guarding the work during its progress. And the liability is the same, whether the work is done by contractors or other servants and employees of the city. *Detroit v. Carey*, 9 Mich., 165. Lot owners adjacent to lands dedicated and used for the purpose of a public street in a city or village, are not entitled to compensation for the use of the street for the construction of a public sewer.—*Warren v. Grand Haven*, 30 Mich., 24.

‡ See also act No. 23 of 1882; Sec. 209 of this compilation. Where it becomes a matter of necessity to obtain an outlet for city drainage, beyond the corporate limits, it seems that the power to acquire and maintain it may be implied, although not expressly given in the charter.—*Coldwater v. Tucker*, 38 Mich., 474.

public use. But in all cases where the council shall deem it practicable, such sewers and drains shall be constructed in the public streets and grounds.—§ 2603.

128. SEC. 2. If the council shall deem it expedient, they may establish a board of sewer commissioners for the city, consisting of not less than three nor more than five persons, to have the management of the sewers and the charge of their construction; and may by ordinance prescribe their powers, compensation, terms of office, and duties.—§ 2604.

Board of sewer commissioners.

129. SEC. 3. Whenever it may become necessary in the opinion of the council to provide sewerage and drainage for the city or any part thereof, it shall be their duty to devise or cause a plan of drainage to be devised for the whole city, or for such part thereof as they shall determine.—§ 2605.

Plan for drainage.

130. SEC. 4. Such plan shall, in the discretion of the council, be formed with the view of the division of the city into main sewer districts, each to include one or more main or principal sewers, with the necessary branches and connections; the districts to be numbered and so arranged as to be as nearly independent of each other as may be. Plats or diagrams of such plan, when adopted, shall be filed in the office of the city clerk.—§ 2606.

Main sewer districts.

Plats.

131. SEC. 5. Main sewer districts may be subdivided into special sewer districts in such manner that each special district shall include one or more lateral or branch sewers connecting with a main sewer, and such lands as in the opinion of the council will be benefited by the construction thereof. When deemed necessary, special sewer districts, to include one or more local or branch sewers and such lands as in the opinion of the council will be benefited by the construction thereof, may be formed of territory not included in any main sewer district.—§ 2607.

Special sewer districts.

132. SEC. 6. The council may, however, provide for main or trunk sewers without reference to sewer districts, diagrams or plats of which shall be recorded in the office of the city clerk in the book of sewer records.—§ 2608.

Trunk sewers.

133.* SEC. 7. The cost and expenses of establishing and making any main or trunk sewers, constructed without reference to sewer districts, shall be paid out of the general sewer fund. Such part as the council shall determine, being not less than one-sixth of the cost and expense of any main district sewer or of the cost of any lateral, branch, or local sewer constructed within a special sewer district, shall be paid from the general sewer fund, and the remainder of such costs and expenses shall be defrayed by special assessment upon all the taxable lands and

Manner of paying for various kinds of sewers.

*133. It is competent to defray the expense of constructing sewers by special assessments in sewer districts. *Warren v. Grand Haven*, 30 Mich., 24. As to apportioning the expense according to frontage, see same case. A special sewer assessment levied without regard to actual or probable benefits is unlawful. The rule of apportionment adopted, must be one which by legal possibility may be just and equal as between the parties assessed. A rule of apportionment requiring all lots which the council should declare benefited by the sewer, to be assessed in proportion to their superficial area, but without regard to the amount of benefits to each, was held not to prescribe a basis of justice or equality, and was therefore invalid. *Thomas v. Gain*, 35 Mich., 155. See discussion as to the proper manner of assessing, in the same case.

premises included within the main or special sewer district, as the case may be, in proportion to the estimated benefits accruing to each parcel respectively from the construction of the sewer. Assessments according to benefits as aforesaid shall be made without reference to any improvements or buildings upon the lands.—§ 2609.

Diagram and estimate of cost of sewers to be built.

134. SEC. 8. Before proceeding to the construction of any district sewer, the council shall cause a diagram and plat of the whole sewer district to be made, showing all the streets, public grounds, lands, lots, and subdivisions thereof in the district, and the proposed route and location of the sewer; and the depth, grade, and dimensions thereof, and shall procure an estimate of the cost thereof. And they shall give notice, by publication for at least two weeks, in one of the newspapers of the city, of the intention to construct such sewer, and where said diagram and plat may be found for examination, and of the time when the council will meet and consider any suggestions and objections that may be made by parties interested with respect to such sewer.—§ 2610.

Notice of intention to construct sewers.

Determination to construct district sewer declared by resolution.

135. SEC. 9. When the council shall determine to construct any such district sewer, they shall so declare by resolution, designating the district and describing by reference to the plat and diagram thereof, mentioned in the preceding section, the route and location, grade, and dimensions of the sewer, and shall determine in the same resolution, what part of the estimated expenses of the sewer shall be paid from the general sewer fund, and what part shall be defrayed by special assessment according to benefits; and they shall cause such plat and diagram as adopted to be recorded in the office of the city clerk, in the book of sewer records.—§ 2611.

Apportionment of expenses.

Record of plat.

Special assessments for sewers.

136 * SEC. 10. Special assessments for the construction of sewers shall be made by the board of assessors in the manner provided in this act for making special assessments.—§ 2612.

Formation of sewer districts on petition.

137. SEC. 11. When the owners of a majority of the lands liable to taxation in any sewer district or part of the city which may be constituted a sewer district, shall petition for the construction of a sewer therein, the council shall construct a district sewer in such location, and if the lands including the line of such proposed sewer are not within any sewer district, a district shall be formed for that purpose. In other cases sewers shall be constructed in the discretion of the council.—§ 2613.

Ordering construction of private drains.

138. SEC. 12. Whenever the council shall deem it necessary for the public health, they may require the owners and occupants of lots and premises to construct private drains therefrom to connect with some public sewer or drain, and thereby to drain such

* It is competent to make the apportionment by assessors appointed for that purpose.—*Warren v. Grand Haven*, 30 Mich., 24. As to whether and how the assessors should certify the manner and basis upon which their assessment was made, see the same case. After the apportionment is reported by the assessors, the parties interested or affected thereby must have an opportunity to be heard and to make their objections thereto, if any they have, before the assessment is confirmed, otherwise it cannot be sustained.—*Thomas v. Gain*, 35 Mich., 155. See also notes to § 1020 of Howell's Annotated Statutes.

lots and premises; and to keep such private drains in repair and free from obstruction and nuisance; and if such private drains are not constructed and maintained according to such requirement, the council may cause the work to be done at the expense of such owner or occupant, and the amount of such expense shall be a lien upon the premises drained, and may be collected by special assessment to be levied thereon.—§ 2614.

Expenses thereof.

139. SEC. 13. The owners or occupants of lots and premises shall have the right to connect the same, at their own expense, by means of private drains, with the public sewers and drains, under such rules and regulations as the council shall prescribe.—§ 2615.

Connection of premises, etc., with public sewers.

140.* SEC. 14. The council may charge and collect annually from persons whose premises are connected by private drains with the public sewers, such reasonable sum, not exceeding two dollars per year, as they may deem just, in proportion to the amount of drainage through such private drain; and such charge shall be a lien upon the premises, and may be collected by special assessment thereon, or otherwise.—§ 2616.

Owners of such premises to pay an annual fee therefor.

141. SEC. 15. Such part of the expenses of providing ditches and improving water-courses as the council shall determine, may be defrayed by special assessment upon the lands and premises benefited thereby, in proportion to such benefits.—§ 2617.

Special assessments for ditches, etc.

142. SEC. 16. The expenses of repairing public sewers, ditches, and water-courses may be paid from the general sewer fund. The expenses of reconstructing public sewers shall be defrayed in the manner herein prescribed for paying the expenses of the construction thereof.—§ 2618.

Expenses of repairing and reconstructing.

143. SEC. 17. The council may enact such ordinances as may be necessary for the protection and control of the public drains and sewers, and to carry into effect the powers herein conferred in respect to drainage of the city.—§ 2619.

Protection and control of public sewers, etc.

FROM CHAPTER XXII.—STREETS AND PUBLIC GROUNDS.—Page 319, *Laws of 1873*.

144.†—SECTION 1. The council shall have supervision and control of all public highways, bridges, streets, avenues, alleys,

Control and repairing of.

*140. Charging individuals for the privilege of connecting private drains with public sewers, does not create any obligation on the part of the city to keep the sewers in repair, or to afford sufficient drainage for their premises, or to pay any damages for injuries resulting from their use of the sewers or from defects therein. The privilege is a license merely.—*Dermont v. Mayor*, 4 Mich., 435.

† Chapter XXII. Note.—*Obligation to repair, etc.*—See *Detroit v. Blackely*, 21 Mich., 84, and in the previous case of *Leoni v. Taylor*, 20 Mich., 148, and *Niles v. Martin*, 4 Mich., 557, it was held that the duty of keeping the public streets and highways in the townships, cities, and villages of the State, in repair, was a duty owing to the public and not to private individuals, and that such corporations were not, therefore, liable to private parties for injuries sustained for want of such repairs. Since these decisions were made, the legislature, by Act 264 of 1887 (Secs. 375-382 of this compilation) has made it the duty of these corporations to keep all public highways, streets, bridges, cross-walks, and culverts within their jurisdiction and under their control, in good repair and safe for public travel at all times; and has made them liable in damages to persons sustaining injuries by reason of non-repair. But this act is held not to apply to sidewalks, and no damages are recoverable under it for injuries occasioned by defects in them.—*Putnam v. Detroit*, 45 Mich., 263.

‡ 144. The streets of a city are public highways, designed like all other roads, for the benefit of all persons desiring to travel on them.—*Detroit v. Blackely*, 21 Mich., 84, 106. A highway is one over which all people of the State have a common and equal right to travel, and a general interest to keep unobstructed.—*People v. Jackson*, 7 Mich., 442. A street includes the whole width of the public way.—*Brevort v.*

side-walks, and public grounds within the city, and shall cause the same to be kept in repair, and free from nuisance.—§ 2620.

STREET REGULATIONS.

Obstructions of
and encroach-
ments upon
streets.

145.* SEC. 12. The council shall have power to prohibit and prevent obstructions and incumbrances in, and encroachments upon, the public highways, streets, and alleys of the city, and to remove the same; and to punish those who shall obstruct, incumber, encroach, or maintain any encroachments, upon or in any such highway, street, or alley; and to require all such persons to remove every such obstruction, incumbrance, and encroachment.—§ 2631.

Digging in
streets for lay-
ing of gas-
pipes, etc.

146.† SEC. 14. The council may regulate the making of all

Detroit, 34 Mich. 322. Within the meaning of the statute regulating the use of highways (§ 1456 General Statutes, Howell, 1882) "the traveled part of the road" is that part which is wrought for traveling, and is not confined merely to the traveled wheel-track.—*Daniels v. Clegg*, 28 Mich., 32. The fee of the land in the public streets is vested in the county in trust for public use as highways, etc.—*Bay County v. Bradley*, 39 Mich., 163. See also General Statutes, Howell, Chap. 32, p. 425, and notes. All highways are such solely by municipal law, which may establish, regulate, and abolish them at all times. All public easements are subject to control or extinguishment by legislative authority.—*Horn v. People*, 26 Mich., 221. An alley is not a highway, in the proper sense of the term. It is a way subject to a modified supervision. It is liable to be used for drainage and other urban service, under city regulation, but is intended for the convenience of adjacent property, and not for general use like streets.—*Paul v. Detroit*, 32 Mich., 108.

Control.—The power to control would not authorize the council to grant the exclusive use of streets to individuals.—*People v. Carpenter*, 1 Mich., 294.

Shall cause the same to be kept in repair, etc.—The extent of the duty to repair seems to depend upon the means placed at the command of the city for that purpose.—*Dewey v. Detroit*, 15 Mich., 307. As to the liability for not repairing, as affected by want of notice, and what will be deemed sufficient notice of the repairs needed, see the same case. As to when a city will be liable for damages resulting from the negligence and default of its contractors in making improvements in the public streets, see *Detroit v. Corey*, 9 Mich., 165. Sidewalks, repair of, see *Marquette v. Cleary*, 37 Mich., 296.

* Until a street or alley has been actually opened to public use, the occupation or obstruction of it cannot be punished under city by-laws.—*Jackson v. People*, 9 Mich., 111, 122; *Beecher v. People*, 38 Mich., 289; See *Tiltman v. People*, 12 Mich., 401. The land-owners adjacent to a *cul-de-sac*, have the right, it seems, to close it. *Tiltman v. People*, 12 Mich., 401. Incumbering or obstructing a public way, means to place impediments to travel and passage in the open street, tending to make its use difficult or dangerous. To encroach is to enclose a portion of the street by fences or walks, or to occupy it by buildings.—*Grand Rapids v. Hughes*, 15 Mich., 54. Where an alleged encroachment is based upon a claim of right or title to the land, the remedy by the imposition of penalties is not appropriate while that controversy remains unsettled.—*Grand Rapids v. Hughes*, 15 Mich., 54; *Jackson v. People*, 9 Mich., 111, 122. The title to the premises cannot be tried under city ordinances.—*Roberts v. Cottrellville*, 25 Mich., 23; *Horn v. People*, 26 Mich., 221; *Beecher v. People*, 38 Mich., 289. Nor can the city determine for itself, the title, or rights of the public, in the lands covered by the disputed encroachment.—*Sheldon v. Kalamazoo*, 24 Mich., 383. In the case of highways, penalties for obstructing are not recoverable by indictment.—*Pettinger v. People*, 20 Mich., 336. Nor has a city such an ownership in its streets as to enable it to maintain ejectment for them.—*Grand Rapids v. Whittleson*, 33 Mich., 109; *Bay County v. Bradley*, 39 Mich., 163. As to obstructions and encroachments, see also Chap. VI., page 403 of Howell's Compilation, and notes; also § 1403, page 410 of same, and notes.

† 146. The council cannot delegate to a committee or others, the power to grade and ditch or drain streets according to their discretion.—*Chilson v. Wilson*, 38 Mich., 257. The privilege of laying gas-pipes in the streets must be by contract with, or license from the corporation; it is not a State franchise.—*Maybury v. Mutual Gas Light Co.*, 38 Mich., 154. Where privileges granted by a city to a corporation to use its streets have lapsed, a renewal of them must be upon such terms as the city may choose to impose.—*Detroit v. D. C. R. Co.*, 37 Mich., 358. The action of the council in designing and providing for public works, and local improvements, and in prescribing the character, extent, and plan of such works and improvements, is legislative and discretionary. And it is within the discretion of the council to determine to what extent such works and improvements shall be constructed with reference to the convenience, safety, and protection of the citizens. Hence the city is not responsible for any defects in the plan, or for any deficiencies in the scope or extent of the works and improvements devised, and is not responsible for any injuries resulting to individuals from defects and deficiencies in such plans and designs.—*Detroit v. Beckman*, 64 Mich., 125; *Langston v. Toolan*, 37 Mich., 152; same case, 38 Mich., 315. But for injuries resulting from negligence or the invasion of private rights, in the execution of the design, or in making the improvement, the city may be liable.—*Detroit v. Beckman*, 34 Mich., 125. So where the work is so devised and planned

openings in, and removals of, the soil of public streets, for the laying or repair of sewers, drains, tunnels, gas-pipes, water-pipes, or for any other purpose; and may prohibit and prevent all such openings and removals of the soil, except by express permission of the council, and at such times and upon such terms and regulations as they may prescribe.—§ 2633.

147* SEC. 15. The council may regulate the use of the public highways, streets, avenues, and alleys of the city, subject to the right of travel and passage therein. They shall have authority to prescribe the stands for all vehicles kept for hire, or used for the transportation of persons or property for hire; to designate the places where loads of wood, coal, hay, and other articles may stand for sale; to regulate traffic and sales in the streets and upon sidewalks; to regulate or prohibit the display, use, or placing of signs, advertisements, and banners, awning-posts and telegraph poles, in or over the streets; to prohibit immoderate riding and driving in the streets or over bridges; to regulate or prohibit all such sports, amusements, proceedings, and gathering of crowds in the streets as may interfere with the lawful use thereof, or render travel or passage therein inconvenient or unsafe; to prohibit and prevent the running at large of horses, cattle, swine, dogs, geese, and other domestic animals or fowls in the streets, or elsewhere in the city, and to impose penalties upon the owners or keepers thereof permitting the same, and to require and authorize the destruction of dogs found at large contrary to the ordinances of the city; to cleanse and purify the streets; and to prohibit, prevent, remove, and abate all nuisances therein, and to require the authors and maintainers thereof to remove the same and to punish them; and generally to prescribe and enforce all such police regulations over and in respect to the public streets, as may be necessary to procure good order and safety to persons and property in the lawful use thereof; and to promote the general welfare; and in addition to all other powers herein granted, the council shall have the same authority and powers over and in respect to the public streets of the city as are conferred by law upon highway commissioners in townships.—§ 2634.

Regulations as to use of streets.

Stands for vehicles.

Wood and hay market, etc.

Signs, etc.

Immoderate driving.

Gathering of crowds.

Running at large of animals and fowls.

Cleaning of streets and removing nuisances.

General police authority over the streets.

as to cause an injury in the nature of a trespass upon private property, or so as to appropriate or deprive a party of some use or enjoyment of his property to which he is entitled.—See same case.

*147. The council may grant the privilege of laying and operating street railways, in the public streets, regardless of the consent or wishes of the adjoining proprietors who may own the soil of the street.—*G. R. & I. R. R. Co. v. Heisel*, 38 Mich., 62. It seems that the permission by the city to a railroad company to lay its tracks in a public street, does not bind the interests of adjacent proprietors who own the soil of the street. In such case the company has no right to lay its tracks and appropriate the lands of the adjacent owner without compensation. Such owner has the right either by way of compensation upon condemnation or by suit against the company, to recover such damage as the road may occasion, by the appropriation of his land and by the detriment to the use, and the depreciation of the value of his adjacent premises.—*G. R. & I. R. R. Co. v. Heisel*, 38 Mich., 62. But where the adjacent owner has no rights in the soil of the street, he cannot recover against the company for depreciation of his rental or value of his premises by reason of its occupation and use of the street. In such cases the adjacent owner can recover only where the company violates the rule requiring one proprietor to so use his premises as not unreasonably to inconvenience his neighbor. Leaving cars to stand for an unreasonable length of time in front of the owner's premises, unnecessarily obstructing his travel, making unnecessary noises, and running trains at an unwarrantable speed, may be instances of such damage.—See same case.

FROM CHAPTER XXIII.—SIDEWALKS.—Page 324, Laws of 1873.

Construction,
etc.

148.* SEC. 2. The council shall also have authority to require the owners and occupants of lots and premises to construct and maintain sidewalks in the public streets adjacent to and abutting upon such lots and premises, and to keep them in repair at all times, and to construct and lay the same upon such lines and grades, and of such width, materials, and manner of construction, and within such time as the council shall, by ordinance or resolution, prescribe.—§ 2637.

Removal of
snow, ice, etc.

149. SEC. 3. The council shall also have power to cause and require the owners and occupants of any lot or premises to remove all snow and ice from the sidewalks in front of or adjacent to such lot and premises, and to keep the same free from obstructions, encroachments, incumbrances, filth, and other nuisances.—§ 2638.

Proceedings in
cases of neglect.

150. SEC. 4. If the owner or occupant of any lot or premises shall fail to construct or maintain any particular sidewalk as mentioned and prescribed in the last two sections, or shall fail to keep the same in repair, or to remove the snow, ice, and filth therefrom, or to remove and keep the same free from obstructions, encroachments, incumbrances, or other nuisances, or shall fail to perform any other duty required by the council in respect to such sidewalks, within such time and such manner as the council shall require, the council may cause the same to be done, and such sidewalk to be constructed or repaired at the expense of such owner or occupant, and the amount of all expenses incurred by the council thereby shall be levied as a special assessment upon the lot or premises adjacent to and abutting upon such sidewalk.—§ 2639.

Expense a tax
on property.Regulations as
to placing of
signs, awnings,
etc.

151. SEC. 5. The council shall have power to regulate and prohibit the placing of signs, awnings, awning posts, and of other things upon or over sidewalks, and to regulate or prohibit the construction and use of openings in the sidewalks, and of all vaults, structures, and excavations under the same; and to prohibit and prevent obstructions, incumbrances, or other nuisances upon the walk.—§ 2640.

Lot owners,
etc., liable for
injuries result-
ing from their
neglect.

152.† SEC. 6. If any owner, occupant, or person in charge of any lot or premises shall neglect to repair any sidewalk in front of or adjacent to such premises, or to remove any snow or ice therefrom, or to keep the same free from obstructions and incumbrances, in accordance with the requirements of the ordinances and regulations of the council, he shall be liable to the city for the amount of all damages which shall be recovered

* 148. See also *Marquette v. Cleary*, 37 Mich., 296. The duty which under this and the next section, § 2638, the council may require by ordinance, of lot-owners, to construct and maintain sidewalks, and to keep the same free from snow, ice, and other obstructions, is a duty to the public and not a duty to individuals. Hence a party injured by reason of ice left upon a sidewalk in violation of an ordinance requiring the lot-owner to keep the sidewalk free, etc., cannot maintain an action against the lot-owner for such injury.—*Taylor v. L. S. & M. S. Ry. Co.*, 45 Mich., 74.

† 152. A suit against a lot-owner under the provisions of this section can be maintained only after the city has been rendered liable in a suit against it.—*Taylor v. L. S. & M. S. R. R. Co.*, 45 Mich., 74.

against the city for any accident or injury occurring by reason of such neglect.—§ 2641.

FROM CHAPTER XXVI.—FINANCE AND TAXATION.—Page 343, *Laws of 1873*.

153. SEC. 7. In addition to the above amounts, the council may raise, by special assessment in sewer districts and special assessment districts, for the purpose of grading and paving, curbing, graveling, and otherwise improving the streets, and for constructing sewers and drains, and making other local improvements chargeable upon the lands and property in the district, according to frontage or benefits, and for all other purposes for which the main sewer funds and special assessment funds are constituted, such sums as they shall deem necessary, but not exceeding in any one year five per cent on the assessed value of the property in the sewer district, or special assessment district, as the case may be, as shown by the last preceding assessment rolls of the city.—§ 2699.

Amount in sewer and special assessment districts for local improvements.

154. SEC. 8. A tax or assessment of not more than two dollars per year may be levied upon each lot or premises drained by a private sewer or drain leading into any public drain or sewer.—§ 2700.

Tax for use of public sewer.

FROM CHAPTER XXIX.—FIRE DEPARTMENT.—Page 364, *Laws of 1873*.

155. SECTION 1. The council of any city shall have power to enact such ordinances, and establish and enforce such regulations as they shall deem necessary to guard against the occurrence of fires, and to protect the property and persons of the citizens against damage and accident resulting therefrom; and for this purpose to establish and maintain a fire department; to organize and maintain fire companies; to employ and appoint firemen; to make and establish rules and regulations for the government of the department, the employes, firemen, and officers thereof; and for the care and management of the engines, apparatus, property, and buildings pertaining to the department; and prescribing the powers and duties of such employes, firemen, and officers.—§ 2754.

Establishment and maintenance of.

156.* SEC. 7. The council may prescribe by ordinance, from time to time, limits or districts within the city, within which wooden buildings and structures shall not be erected, placed, or enlarged; and to direct the manner of constructing buildings within such districts, with respect to protection against fire, and the material of which the outer walls and roof shall be constructed.—§ 2760.

Fire limits.

157.† SEC. 8. The council may also prohibit, within such places or districts as they shall deem expedient, the location of

Location of shops, lumber yards, etc.

* 156. It is competent for the council to establish fire-limits, and to prohibit the erection or repair of buildings dangerous with respect to promoting fires therein. Such regulations are within the police powers necessary to the safety of the city. *Brady v. Northwestern Insurance Company*, 11 Mich., 425, 447; *St. Johns v. McFarlan*, 35 Mich., 72. As to the effect upon a covenant to rebuild where a fire ordinance intervenes to prohibit performance, etc.—*Cordes v. Miller*, 39 Mich., 581.

† 157. On care of gunpowder, etc., see section 1 (§ 2555), clause twenty-seventh, chapter XI. of this act, p. 35, also act 139 of 1873, Secs. 312-314 of this compilation; on location of offensive trades, see sections 36-38, p. 11 of this compilation.

Storing of
gunpowder, etc.

shops; the prosecution of any trade or business; the keeping of lumber yards; and the storing of lumber, wood, or other easily inflammable material, in open places, when, in the opinion of the council, the danger from fire is thereby increased. They may regulate the storing of gunpowder, oils, and other combustible and explosive substances, and the use of lights in buildings; and, generally, may pass and enforce such ordinances and regulations as they may deem necessary for the prevention and suppression of fires.—§ 2761.

Building
erected, re-
paired, or kept
in violation of
an ordinance, a
nuisance.

158. SEC. 9. Every building or structure which may be erected, placed, enlarged, or kept in violation of any ordinance or regulation made for the prevention of fires, is hereby declared to be a nuisance, and may be abated or removed by the direction of the council.—§ 2762.

VILLAGES. *

Act No. 62, Laws of 1875, entitled, "An act granting and defining the powers and duties of incorporated villages." As amended by Act 290, Laws of 1887.

FROM CHAPTER VII.—POWERS OF COUNCIL. †

Powers and au-
thority of vil-
lages and the
exercise
thereof.

159. SECTION 1. Every village subject to the provisions of this act, shall, in addition to such other powers as are conferred, have the general power and authority granted in this chapter, and the council may pass such ordinances in relation thereto as it may deem proper, namely:

First, To restrain and prevent vice and immorality;

Second, To punish vagrants, disorderly persons, and common prostitutes;

Third, ‡ To regulate or prohibit the selling, storing or transportation of combustible or explosive substances or materials within the village, and to regulate and restrain the making of fires in the streets or other open spaces in the village;

Eleventh, To provide for and regulate the inspection of provisions, firewood and hay on the public markets;

Fourteenth, ¶ To abate nuisances and preserve the public health;

Fifteenth, To purchase and regulate cemeteries;

Sixteenth, To make ordinances for the organization and regulation of the fire department, and for the prevention and extinguishment of fires, and to establish and maintain definite fire limits;—§ 2847. *As amended by Act 290, Laws of 1887.*

* Relative to public-health interests of villages incorporated by board of supervisors and organized under Act No. 168, Laws of 1857, entitled, "An act to provide for the incorporation of villages," see also sections 3315, 3321 (amended by Act 31 of 1879, 3324, and 3325, Compiled Laws of 1871, being §§ 2490, 3005, 3008, 3009 of Howell's Statutes.

† See also * footnote on powers of city councils, page 34.

‡ *Third*—See also notes to clause "Third," page 35.

¶ *Fourteenth*—See also Sec. 8, chap. X. of this act, section 189 of this compilation; also §§ 2965, 2103-5, Howell's Statutes (Secs. 189, 309-311 of this compilation); and act 139 of 1873 (Secs. 312-314, of this compilation).

NOTE ON CITY AND VILLAGE CORPORATIONS. In construing a municipal charter, all its provisions should be considered as a whole; at least all provisions bearing upon the same subject should be considered together. *Linton v. East Saginaw*, 41 Mich., 18. And as not designed to encroach upon the general laws of the State any farther than it plainly shows an intent to do so.—*Merrill v. Kalamazoo*, 35 Mich., 211. A municipal charter is not a contract between the State and the corporation. The corporation can exercise no powers except such as are permitted by the State, and these are subject to be taken away or varied at the will of the legislature. *Detroit v. Blackeby*, 21 Mich., 84, 114.

160.* SEC. 5. When the council shall deem it for the public interest, grounds and buildings for the village prison, hospital, pest-house, cemetery, and water-works may be purchased, erected, and maintained beyond the corporate limits of the village; and in such cases the council shall have authority to enforce beyond the corporate limits of the village, and over such lands, buildings, and property, in the same manner and to the same extent as if they were within the village, all such ordinances and police regulations as may be necessary for the care and protection thereof, and for the management and control of the persons kept or confined in such prison, pest-house, or hospital.—§ 2851.

Prison, pest-house, etc., beyond corporate limits.

161.† SEC. 9. The council shall also have authority to require the owners and occupants of lots and premises to construct and maintain sidewalks in the public streets adjacent to and abutting upon such lots and premises, and to keep them in repair at all times, and to construct and lay the same upon such lines and grades, and of such width, materials, and manner of construction, and within such time, as the council shall by ordinance or resolution prescribe, and to keep the same free from obstructions, snow, ice, filth, or any nuisance.—§ 2855.

Council may require owners of lots to construct sidewalks adjacent thereto.

162. SEC. 10. If the owner or occupant of any lot or premises shall fail to construct and maintain any particular sidewalk, as mentioned and prescribed in the last preceding section, the council may cause such sidewalk to be constructed or repaired, at the expense of such owner or occupant, and the amount of all expenses incurred by the council thereby may be levied as a special assessment upon the lot or premises adjacent to and

In case of failure council may construct, etc.

Expense of same, how paid, etc.

City and village corporations have a two-fold character—1st, as State agencies in carrying on the general government of the State; 2d, as local municipal governments or corporations vested with certain legislative and administrative powers for the management of the private affairs and local interests of the corporate community.—*People v. Hurlbut*, 24 Mich., 44; *People v. Common Council of Detroit*.—28 Mich., 228.

* 160. See Sec. 2, chap. XX., act 178 of 1873, and note, p. 40.

† 161. See Sec. 2, chap. XXIII., act 178 of 1873, and note, p. 46.

As State agencies they are wholly under its control. They hold all their public functions at its suzerainty. Their duties may be multiplied or restricted and may be enforced at the pleasure of the legislature, either by employing local officers for that purpose, or through agents or officers of its own appointment. The exercise of the powers conferred upon them for this purpose is wholly in subordination to State authority, and is in no manner left to their discretion.—*People v. Common Council of Detroit*, 28 Mich., 228; *People v. Hurlbut*, 24 Mich., 44; *Bay City v. State Treasurer*, 23 Mich., 503; *People v. Mahoney*, 13 Mich., 431.

As local municipal governments, the legislature has the right also, subject to the purposes of the constitution, to mould and determine their general features and to prescribe and confer such legislative and administrative powers as may be needful for the orderly conduct and proper management of their local affairs and interests.—*Atty Gen. v. Detroit*, 29 Mich., 108. Within the limits thus prescribed, these corporate communities have the right of local self-government.—*Allor v. Wayne Auditors*, 43 Mich., 76, 98. With the management of those local affairs and private interests the State has no concern.—*Park Commissioners v. Detroit*, 28 Mich., 228. Hence, when acting within the legitimate scope of the powers thus granted for the purposes of local municipal government, these corporations are not subject to outside dictation or control. The State cannot transfer the legislative powers of the council to boards or agencies of its own choosing, nor confide the administration of the local corporate affairs of the municipality to officers of its own appointment, nor control or manage the private property interests of the corporation by either.—*People v. Hurlbut*, 24 Mich., 44; *Atty Gen. v. Lathrop*, 24 Mich., 235; *Hubbard v. Springwells*, 25 Mich., 153; *Park Commissioners v. Detroit*, 28 Mich., 228; *Atty Gen. v. Detroit*, 29 Mich., 108; *Park Commissioners v. The Mayor*, 29 Mich., 343; *Water Commissioners v. Council of East Saginaw*, 33 Mich., 104, 109; *Allor v. Wayne Auditors*, 43 Mich., 76; *Mayor v. Park Commissioners*, 44 Mich., 602. Nor can the council delegate to others the performance and exercise of those powers and duties, confided to its judgment and discretion.—*Scofield v. Lansing*, 17 Mich., 437; *Chilson v. Wilson*, 38 Mich., 267.

abutting upon such sidewalk, or the expense incurred in constructing or repairing such sidewalk may be paid out of the general fund of the village, whenever the council shall so determine by a vote of two-thirds of all the trustees elect.—§ 2856.—*As amended by Act 221, Laws of 1889.*

Signs, awnings,
etc.

163. SEC. 11. The council shall have power to regulate and prohibit the placing of signs, awnings, awning-posts, and of other things upon or over sidewalks, and to regulate or prohibit the construction and use of openings in the sidewalks, and of all vaults, structures, and excavations under the same.—§ 2857.

Council may
establish or
abolish streets,
sidewalks,
water-courses,
etc.

164. SEC. 12. The council shall have power to lay out, establish, open, make, widen, extend, straighten, alter, close, vacate, or abolish any highway, street, lane, alley, sidewalks, sewers [sewer], drain, water-course, bridge, or culvert in the village whenever they shall deem the same a public improvement, or necessary for the public convenience; and if in so doing it shall be necessary to take or use private property, the same may be taken in the manner provided by the general law of the State.

Taking private
property.

Special assess-
ments.

The expense of such improvement, except the amount paid for private property taken for public streets, may be paid by special assessments upon the property adjacent to, or benefited by such improvement, in the manner in this act provided for levying and collecting special assessments, or in the discretion of the council, a portion of such costs and expenses may be paid by special assessments as aforesaid, and the balance from the general highway fund.—*As amended by act 245 of 1879.*—§ 2858.

STREET REGULATIONS.

Incumbrances
in streets,
alleys, etc.,
removal of.

165.* SEC. 20. The council shall have power to prohibit and prevent obstructions and incumbrances in, and encroachments upon the public highways, streets, and alleys of the village, and remove the same; and to punish those who shall obstruct, encumber, encroach, or maintain any encroachment, upon or in any such highway, street or alley; and to require all such persons to remove every such obstructions [obstruction], incumbrance and encroachments.—*Added by Act 245 of 1879.*—§ 2866.

Opening of
sewers, drains,
etc.

166.† SEC. 22. The council may regulate the making of all openings in, and removals of the soil of public streets, for the laying or repairing [repair] of sewers, drains, tunnels, gas pipes,

*165. See also section 12 (section 145 of this compilation), chapter XXII., Act 178, Laws of 1873, and note, p. 40. Proceedings to enforce penalties for alleged encroachments, or to forcibly remove them, are not competent so long as the exact location and boundaries of the highway are uncertain, or are in dispute. The question as to whether there is an encroachment, is one of fact which the party occupying the land is entitled to have tried and determined the same as the title to other lands is determined.—*Parker v. People*, 22 Mich., 95; *Roberts v. Cottrellville*, 25 Mich., 23; *Campau v. Button*, 33 Mich., 527; *Gregory v. Stanton*, 40 Mich., 271. The title to the land within the alleged encroachment cannot be settled in proceedings under a village ordinance to remove the encroachment.—*Beecher v. People*, 38 Mich., 289; *Horn v. People*, 26 Mich., 221. The right to the enjoyment of an easement cannot be recovered in ejectment.—*Taylor v. Gladwin*, 40 Mich., 232; *Grand Rapids v. Whittlesly*, 32 Mich., 192; *Bay County v. Bradley*, 39 Mich., 163.

†166. See also note to section 14 (section 148 of this compilation), chapter XXII., Act 178, Laws of 1873, page 41. On right of the village in grading streets and alleys to take soil or gravel adjacent to a proprietor's lot, and use it elsewhere in grading the street, see *Cuming v. Prang*, 24 Mich., 514, 523; *Bissell v. Collins*, 28 Mich., 277.

water pipes, or for any other purpose; and may prohibit and prevent all such openings and removals of [the] soil, except by express permission of the council, and at such times, and upon such terms and regulations as they may prescribe.—*Added by Act 245 of 1879.*—§ 2868.

167.* SEC. 23. The council may regulate the use of public highways, streets, avenues, and alleys of the village, subject to the right of travel and passage therein. They shall have authority to prescribe the stands for all vehicles kept for hire, or used for the transportation of persons or property for hire; to designate the places where loads of wood, coal, hay, and other articles may stand for sale; to regulate traffic and sales in the streets and upon sidewalks; to regulate or prohibit the display, use, or placing of signs, advertisements, banners, awnings, posts, and telegraph poles in or over the streets; to prohibit immoderate riding or driving in the streets, or over bridges; to regulate or prohibit all such sports, amusement, proceedings, and gatherings of crowds in the streets as may interfere with the lawful use thereof, or render travel or passage therein inconvenient or unsafe; to prohibit and prevent the running at large of horses, cattle, swine, dogs, geese, and other domestic animals or fowls, in the streets or elsewhere in the village, and to impose penalties upon the owners or keepers thereof permitting the same, and to require or authorize the destruction of dogs found at large contrary to the ordinances of the village; to cleanse and purify the streets, and to prohibit, prevent, remove, and abate all nuisances therein, and to require the authors and maintainers thereof to remove the same, and to punish them for the creation or maintenance thereof, and, generally, to prescribe and enforce all such police regulations over and in respect to the public streets as may be necessary to secure good order and safety to persons and property in the lawful use thereof, and to promote the general welfare; and in addition to all other powers herein granted, the council shall have the same authority and powers over and in respect to the public streets of the village as are conferred by law upon highway commissioners in townships.—*Added by Act 245 of 1879.*—§ 2869.

Power of council as to general regulations.

* 167. See also note to section 15 (section 147 of this compilation), chapter XXII., Act 178, of 1873, page 41. It is not illegal to make excavations and places for storage under sidewalks, connecting with cellars of adjoining buildings, if safely and properly constructed, so as not to make travel dangerous. The right of passage and transit in the public streets is subject to such incidental, temporary, and partial obstructions as manifest necessity requires. Among these are the temporary impediments necessarily occasioned in the building and repairing of houses on adjoining lots in villages, and in the construction of sewers, and cellars, etc. These are not invasions, but qualifications of the right of transit in the public highway, and the limit on them is that they must not be unnecessarily interposed or prolonged. Such temporary obstructions, duly guarded to prevent danger to the public, and not unnecessarily extended or continued, are not nuisances, and do not require a license from the village authorities to legalize them, although suitable regulations by the city or village authorities, requiring them to be properly guarded, and to prevent them from being made in an improper manner, or continued unnecessarily, are usual and proper.—*Fisher v. Thirkell*, 21 Mich., 1, 22.

SEWERS, DRAINS, AND WATER-COURSES.

Powers of council as to sewers, drains, etc.

168.* SEC. 24. The council of any village may establish, construct, and maintain sewers, drains, and water-courses whenever and wherever necessary, and of such dimensions and materials, and under such regulations as they may deem proper for the drainage of the village; and private property, or the use thereof, may be taken therefor in the manner provided by the general laws of this State, for taking such property for public use. But in all cases where the council shall deem it practicable, such sewer, drain, and water-courses shall be constructed in the public streets and grounds.—*Added by Act 245 of 1879.*—§ 2870.

May establish board of sewer commissioners

169. SEC. 25. If the council shall deem it expedient, in villages having a population of two thousand or more, they may establish a board of sewer commissioners for the village, consisting of not less than three, nor more than five persons, to have the management of the sewers, and the charge of their construction; and may prescribe, by ordinance, the powers, duties, terms of office, and compensation of said commissioners.—*Added by Act 245 of 1879.*—§ 2871.

When council may require private drains to be made.

170. SEC. 30. Whenever the council shall deem it necessary for the public health, they may require the owners and occupants of lots and premises to construct private drains therefrom to connect with some public sewer or drain, and thereby to drain such lots and premises; and to keep such private drains in repair and free from obstruction and nuisance; and if such private drains are not constructed and maintained according to such requirement, the council may cause the work to be done at the expense of such owner or occupant, and the amount of such expense shall be a lien upon the premises drained, and may be collected by special assessment to be levied thereon.—*Added by Act 245 of 1879.*—§ 2876.

Right to connect with public sewers.

171.† SEC. 31. The owners and occupants of lots and premises shall have the right to connect the same, at their own expense, by means of private drains, with the public sewers and drains, under such rules and regulations as the council shall prescribe.—*Added by Act 245 of 1879.*—§ 2877.

Payment for connection with public sewers.

172. SEC. 32. The council may charge and collect annually from persons whose premises are connected by private drains with the public sewers, such reasonable sum, not exceeding two dollars per year, as they may deem just, in proportion to the amount of drainage through such private drain; and such charge shall be a lien upon the premises, and may be collected by special assessment thereon.—*Added by Act 245 of 1879.*—§ 2878.

Ordinances for protection of sewers, etc.

173. SEC. 33. The council may enact such ordinances as may be necessary for the protection and control of the public drains and sewers, and to carry into effect the powers herein conferred in respect to the drainage of the village.—*Added by Act 245 of 1879.*—§ 2881.

* 168. See also note to chapter XXI., Act 178 of 1873, p. 40, also Act 23 of 1882 (section 209 of this compilation).

† 171. See also Sec. 14 (Sec. 140 of this compilation), [Chap. XXI., Act 178 of 1873, and note.

HARBORS, WHARVES, AND HARBOR-MASTERS.

174. SEC. 39. The council shall have authority to provide by ordinance for the preservation of the purity of the waters of any harbor, river, or other waters within the village, to control and regulate the anchorage, moorage, and management of all boats, water-craft, and floats within the jurisdiction of the village; and to regulate and prescribe by such ordinances, or through a harbor-master or other officer, such location of any boat, craft, vessel, or float, and such changes of station in, and use of the harbor as may be required to promote order therein, and the safety and convenience of all such boats, craft, vessels, and floats, and to regulate the opening and passage of bridges; and generally to enact and enforce such ordinances and regulations not inconsistent with the laws of the United States, or this State, as in the opinion of the council shall be most conducive to the orderly, safe, and convenient use and occupancy of the harbor, navigable waters, wharves, docks, piers, and landing places within the village.—*Added by Act 245 of 1879.*—§ 2885.

Control of
harbors, etc.,
in villages.

MARKETS.

175. SEC. 43. The council may adopt and enforce such regulations as may be necessary to prevent fraud and to preserve order in the markets; and may authorize the immediate arrest, and removal from the market, of any person violating such regulations, together with any article [articles] in his possession; and may authorize the seizure and destruction of tainted or unsound meats, or other provisions exposed for sale therein, or elsewhere in the village.—*Added by Act 245 of 1879.*—§ 2889.

Regulations
against fraud,
etc.

Destruction of
tainted meats,
etc.

POLICE.

176. SEC. 45. The council of any village may provide for and establish a police force, and appoint from time to time such number of policemen and night watchmen as they shall deem expedient for the good government of the village, and for the protection of the persons and property of the inhabitants, and they may authorize the president of the village, in cases of emergency and danger, to appoint, temporarily, such number of policemen as in his judgment the occasion may require.—*Added by Act 245 of 1879.*—§ 2891.

Power of coun-
cil to establish
police.

PUBLIC HEALTH.

177.* SEC. 48. The council of any village may enact all such ordinances as may be deemed necessary for the preservation and protection of the health of the inhabitants thereof, and to prevent the introduction of malignant, infectious, or contagious diseases within the village or within one mile thereof; and for the removal of persons having such diseases, or who, from exposure thereto, or otherwise, may be suspected or believed to be liable

Ordinances for
protection of
health.

* 177. See also Sec. 53 of this chapter; also on hospitals and removal of infected persons, §§ 1647, 1648, 1667-1674, Howell's Statutes (Secs. 59, 60, 51-57 of this compilation), pp. 16-18.

to communicate the same, either beyond the corporate limits, or to such hospital or place of treatment within the village as the council may prescribe and the public safety may require.—*Added by Act 245 of 1879.*—§ 2894.

Removal of
nuisances.

178.* SEC. 49. The council shall have power to prevent and remove, or abate all nuisances dangerous to life or health within the village; and may require any person, corporation or company causing such nuisance, and the owner or occupant of any lot or premises upon or in which any such nuisance or cause of disease may be found, to remove or abate the same upon such notice, and within such time and in such manner as the council may by ordinance or resolution direct.—*Added by Act 245 of 1879.*—§ 2895.

Filthy premises,
etc.

179. SEC. 50. If any cellar, vault, lot, sewer, drain, place or premises within the village, shall be damp, unwholesome, offensive or filthy, or be covered during any portion of the year with stagnant or impure water, or shall be in such condition as to produce offensive exhalations, the council may cause the same to be drained, filled up, cleansed or purified; or may require the owner or occupant, or person in charge of such lot, premises, or place, to perform such duty; and may require the owner or occupant of any building, fence, or structure which may be ruinous, or liable to fall and injure persons or property, to pull down or remove the same; or the council may cause the same to be done by the proper officer [officers] of the village.—*Added by Act 245 of 1879.*—§ 2896.

Removal of
unsafe build-
ings, nuisances,
etc.

180. SEC. 51. If the owner or occupant of any lot or premises, when required by the council or board of health to remove any unsafe building or structure, or to cleanse, purify, or drain such lot or premises, or to abate or remove any nuisance therefrom, shall neglect so to do, and the council shall incur any expense in causing the same to be done, such expense may be charged upon such lot or premises, and collected as a special assessment thereon.—*Added by Act 245 of 1879.*—§ 2897.

Ordinances as
to offensive
trades, etc.

181.† SEC. 52. The council, when they shall deem it necessary, may from time to time assign, by ordinance, certain places for the exercise [exercising] of any trade or employment offensive to the inhabitants, or dangerous to the public health; and may forbid the exercise thereof in places not so assigned; and may change or revoke such assignments at pleasure; and whenever a business carried on in any place so assigned, or in any other place in the village, shall become hurtful and dangerous to the health of the neighborhood, the council may prohibit the further exercise of such business or employment at such place.—*Added by Act 245 of 1879.*—§ 2898.

Hospitals,
erection, regu-
lation of, etc.

182.‡ SEC. 53. The council may purchase the necessary lands and erect thereon, or otherwise provide, one or more hospitals,

* 178. See sub-section *Third*, section 1, chapter XI., act 178 of 1873 (Sec. 111 of this compilation), and note, page 35.

† 181. See also §§ 1678-80 Howell's Statutes (Secs. 36-38 of this compilation).

‡ 182. See §§ 1647, 1648, 1667-1674 Howell's Statutes (Secs. 59, 60, 51-57 of this compilation).

either within or without the corporation, and provide for the appointment of the necessary officers and employes for the management thereof, and for the care and treatment therein of such sick and diseased persons as to the council or board of health of the village shall seem proper; and by direction of the council or board, persons having any malignant, infectious, or contagious disease, may be removed to such hospital, and there detained and treated, when the public safety may so require; and the council may provide such restraints and punishments as may be necessary to prevent any such persons [person] from departing from such hospital until duly discharged.—*Added by Act 245 of 1879.*—§ 2899.

183.* SEC. 54. The council of any village incorporated under this act shall have and exercise all the powers and authority conferred upon boards of health by the general laws of the State, so far as the same are applicable; and they may enact such ordinances as may be necessary for regulating the proceedings and mode of exercising such powers.—*Added by Act 245 of 1879.*—§ 2900.

Powers of council as board of health.

184. SEC. 55. When the council shall deem it necessary, they may establish a board of health for the village, and appoint officers therefor, and make rules for its government and invest it with such powers and authority as may be necessary for the protection and preservation of the health of the inhabitants.—*Added by Act 245 of 1879.*—§ 2901.

Board of health, council may establish.

FROM CHAPTER IX.—FINANCE AND TAXATION.

185.† SEC. 4. The council may, for the purpose of purchasing grounds for a cemetery, raise by general tax, a sum not exceeding in any one year, one-fourth of one per cent of the assessed value of the property in the village: *Provided*, That the whole amount which may be so raised for the purchase of grounds for such purpose, shall not, at any time, exceed five thousand dollars. A tax or assessment of not more than two dollars a year may be levied upon each lot or premises drained by a private drain or sewer, leading into any public sewer or drain. Moneys so raised shall be paid into the general fund. In addition to the above amounts, the council may raise by special assessment upon lands in sewer districts and special assessment districts, for the purpose of defraying the cost and expense of grading, paving, planking, and graveling streets, and for constructing drains and sewers, and for making other local improvements, charged upon the lands in the districts [district] in proportion to frontage or benefits, such sums as they shall deem necessary to defray the costs of such improvements, but not to exceed in any one year five per cent of the assessed value of the property in the district chargeable with such expense. Moneys raised by special assessments to pay the cost of any such local

Cemetery grounds.

Proviso.

Private drain tax.

To be paid into general fund.
Special tax for sewer, etc.

Special fund.

* 183. See § 1081 Howell's Statutes and note, p. 7; also the whole of chapter II. of this compilation, pp. 5-34.

† See also cemeteries, burial, enlarging, vacating, sale, etc., pp. 27-31.

Interest and
sinking fund.

improvement, shall be held as a special fund to pay such cost and expense, or to repay moneys loaned therefor. The council may also raise, annually, such further sum, not exceeding three mills on the dollar of the assessed value of the property in the village, as may be needed for an interest and sinking fund, to pay the funded debt of the village, if any, and the interest thereon. The money so raised shall be used for the purpose aforesaid, and for no other.—*As amended by act 245 of 1879.*—§ 2926.

FROM CHAPTER X.—FIRES AND FIRE DEPARTMENT.

Ordinances
relative to
fires, etc.

186. SECTION 1. The council of any village organized subject to the provisions of this act, shall have power to enact such ordinances and establish and enforce such regulations as they shall deem necessary to guard against the occurrence of fires, and to protect the property and persons of the citizens against damage and accident resulting therefrom; and for this purpose to establish and maintain a fire department; to organize and maintain fire companies; to employ and appoint firemen; to make and establish rules and regulations for the government of the department, the employés, firemen and officers thereof; and for the care and management of the engines, apparatus, property and buildings pertaining to the department.—*Added by Act 245 of 1879.*—§ 2958.

Fire wardens.

187. SEC. 6. The council may provide by ordinance for the appointment of, and may appoint such number of fire wardens as may be deemed necessary; and for the examination by them, from time to time, of the stoves, furnaces, and heating apparatus and devices in all dwellings, buildings, and structures within the village; and in all places where combustible or explosive substances are kept; and to cause all such as are unsafe with respect to fire, to be put in a safe condition.—*Added by Act 245 of 1879.*—§ 2963.

Fire districts.

188 * SEC. 7. The council may prescribe by ordinance from time to time, limits or districts within villages having a population of two thousand or more, within which wooden buildings and structures shall not be erected, placed, or enlarged; and to direct the manner of constructing buildings within such districts, with respect to protection against fire, and the material of which the outer walls and roofs shall be constructed.—*Added by Act 245 of 1879.*—§ 2964.

Location of
shops.

Lumber yards,
etc.

189 † SEC. 8. The council may also prohibit within such places or districts as they shall deem expedient, the location of shops; the prosecution of any trade or business; the keeping of lumber yards, and the storing of lumber, wood, or other easily inflammable material in open places, when, in the opinion of the

* 188. It is competent for the council to establish fire-limits, and to regulate and prohibit by suitable penalties the erection or repair therein, of buildings and structures dangerous with respect to causing fires. Such regulations are within the police powers necessary for the safety of the village.—*Brady v. N. W. Ins. Co.*, 11 Mich., 425, 447; *St. Johns v. McFarlan*, 33 Mich., 72.

† 189. On care of gunpowder, etc., see §§ 2103-5; also §§ 9115-17 Howell's Statutes (Secs. 309-317 of this compilation).

council, the danger from fire is thereby increased. They may regulate the storing of gunpowder, oils, and other combustible and explosive substances, and the use of lights in buildings; and, generally, may pass and enforce such ordinances and regulations as they may deem necessary for the prevention and suppression of fires.—*Added by Act 245 of 1879.*—§ 2965.

Storing gunpowder, etc.

190. SEC. 9. Every building or structure which may be erected, placed, enlarged, or kept, in violation of any ordinance or regulation lawfully made for the prevention of fires, is hereby declared to be a nuisance, and may be abated or removed by the direction of the council.—*Added by Act 245 of 1879.*—§ 2966.

Penalty for building, etc., contrary to ordinance.

FROM CHAPTER XI.—WATER WORKS.*

191. SECTION 1. Any village organized under the provisions of this act shall have authority to construct and maintain water-works for the introduction of water into the village and supplying the village and the inhabitants thereof with pure and wholesome water; for the extinguishment of fires; the ordinary and extraordinary uses for dwellings, stores, shops, hotels, factories, manufacturing establishments, mills, public buildings, yards, streets, livery stables, barns, and all other buildings and establishments, and for such other purposes as the council may prescribe.—*Added by Act 245 of 1879.*—§ 2970.

Village may maintain water-works.

IV.—DRAINAGE AND SEWERAGE.

SWAMPS, MARSHES, AND OTHER LOW LANDS; SEWERS AS PUBLIC IMPROVEMENTS IN CITIES AND VILLAGES.

DRAINAGE OF SWAMPS, MARSHES, AND OTHER LOW LANDS.

NOTE.—The Drain Laws of the State of Michigan have been compiled and printed in a separate pamphlet, and published by the Secretary of State, a brief extract is as follows:—

Act No. 227, Public Acts of 1885, as amended and supplemented by Acts No. 159, 160, 182, 207 and 284, Public Acts of 1887, and act No. 233, Public Acts of 1889, entitled, "An act to provide for the construction and maintenance of drains, and the assessment and collection of taxes therefor, and to repeal all other laws relative thereto."

FROM CHAPTER I.—DRAINS,

192.† SECTION 1. *The People of the State of Michigan enact,* That drains may be located, established, constructed, and

Establishment and cleaning out of drains, etc.

* Water and water-works in cities and villages, see remainder of this chapter (XI), pp. 747-9 of the Howell Comp.; also act 5, of 1870 ("An act to authorize the introduction of water into, and the construction or purchase of hydraulic works in, the cities and villages in the State of Michigan"), as amended by act 25 of 1871, and sections added by act 64 of 1872, pp. 756-81 of the Howell Comp.; also act 113 of 1869, "An act to authorize the formation of companies for the introduction of water into towns, cities, and villages in the State of Michigan"), as amended by act 2, of 1873, Howell Comp., pp. 782-6—Sec. 11, amended by act 8, of 1883; also act 124, of 1883 ("An act to authorize cities and villages to take private property for the use or benefit of the public, and to repeal act No. 28, of the public acts of 1833"); also act 39, of 1833.

† 192. *Taxation for private purposes illegal.* The Legislature cannot authorize a tax to be levied upon any portion of the public for the construction, on private property, of a drain in which the public are not concerned. Even the owner of the land benefited cannot be taxed to improve such a drain, unless public considerations are involved: *Butler v. Supervisor of Saginaw*, 28 Mich., 22.

maintained, and drains and water courses may be cleaned out, straightened, widened, deepened, and extended, whenever the same shall be conducive to the public health, convenience, or welfare.

What the word
"drain" to
include.

193. SEC. 2. The word "drain," whenever used in this act, shall be deemed to include any water course or ditch opened or proposed to be opened and improved, for the purpose of drainage, and any artificial ditch or drain, levee, dyke, or barrier, proposed or constructed for such purpose.

CHAPTER II.—DRAIN COMMISSIONERS.

Election of
township drain
commissioner.

Term of office.

Oath and bond.

Vacancy, how
filled.

County drain
commissioner,
appointment of,
and term of
office.

Vacancy, how
filled.

194. SECTION 1. There shall be elected at the annual township meeting, in the year eighteen hundred and eighty-six, and every second year thereafter, in each organized township of this State, one township drain commissioner, who shall hold his office for the term of two years, and until his successor shall be elected or appointed and qualified. Before entering upon the duties of his office, and within ten days after his election or appointment, such township drain commissioner shall take and subscribe the oath of office required by the constitution of this State, and shall file the same with the township clerk. He shall also, within the same time, execute and file with such clerk a bond to the township, in the penal sum of one thousand dollars, with two or more sureties, to be approved by the supervisor or clerk, conditioned upon the faithful discharge of the duties of his office. Whenever a vacancy shall occur in the office of township drain commissioner, the township board shall fill the same by appointment for the remainder of the term in which such vacancy occurred, and such officer so appointed shall qualify and give bonds in the same manner as if he had been regularly elected.

195. SEC. 2. The board of supervisors of each organized county in this State shall, at their annual meeting in the year eighteen hundred and eighty-nine, and every second year thereafter, appoint one county drain commissioner, whose term of office shall be two years, and shall begin on the first day of January following his appointment. All county drain commissioners holding office at the time this act takes effect shall continue in office until the first day of January, eighteen hundred and ninety, and no longer. In case of vacancy in the office of the county drain commissioner occurring thirty days or more previous to a regular or special meeting of the board of supervisors, the same may be filled within ten days, or as soon thereafter as practicable, by appointment by the county clerk and prosecuting attorney of the county jointly, and the person so appointed shall hold his office until the next regular or special meeting of the board of supervisors, when the said board shall fill such vacancy. Every county drain commissioner shall, within ten days after his appointment, take, subscribe and file with the county clerk the oath of office required by the constitution of this State, and

shall also, within the same time, execute and file with such clerk a bond to the county, in the penal sum of three thousand dollars, with two or more sufficient sureties, to be approved by such clerk, conditioned upon the faithful discharge of the duties of his office. It shall be the duty of the county clerk, upon the appointment of any county drain commissioner, to make report thereof to the Secretary of State, giving also the date that he qualified and entered upon the discharge of his duties.—*As amended by Act No. 182, Laws of 1887, and Act 233, Laws of 1889.*

Oath and bond.

Clerk to report to Secretary of State.

196. * SEC. 4. The jurisdiction of the township drain commissioner shall be limited to all drains having their beginning, entire course, and terminus within his township: *Provided*, All the lands liable to be assessed for benefits on account of such drains are also located therein. The county drain commissioner shall have concurrent jurisdiction with the township drain commissioner, and shall also have jurisdiction over all other drains within his county, except that in all cases where the entire drain shall be laid in one county, and the benefits to be derived therefrom and the assessments for its construction shall extend to lands situated in one or more adjoining counties, then all such drains shall be laid by the commissioners of such counties acting jointly, and all their proceedings shall be had under the provisions of this act regulating the construction of drains traversing more than one county.

Jurisdiction of township drain commissioner. Proviso.

Concurrent jurisdiction of commissioners.

County drain commissioners to act jointly.

197. SEC. 5. In case it is proposed to run a part of a drain through an incorporated city, the whole of such drain shall be located, established and constructed and the assessment for its construction made by the county drain commissioner in the same manner as herein provided for the construction of other drains by county drain commissioners, and wherever the word "township" is used in this act, it shall be construed to mean "city," as the case may be: *Provided*, That when an appeal is taken from the assessment of such commissioner by the owner of lands in a city, such appeal shall be made to the common council of such city, subject in every other respect to the provisions of this act covering appeals made to township boards.

In case drain runs into a city.

Word "township" construed to mean "city."

Appeal, where taken.

FROM CHAPTER III.—LOCATION OF DRAINS.

198. SECTION 1. Before the commissioner takes any action toward locating or establishing any drain, there shall be filed with him an application, signed by not less than five freeholders of the township or townships in which such drain or the lands to

Application for drain.

*196. Township drain commissioners have no jurisdiction to lay out drains in other townships than their own, nor to assess the cost of drains against property in other townships: *Drain Comm'r v. Baxter*, 57 Mich., 127.

Townships in Michigan are distinct municipalities whose officers are residents selected by residents; their constitutional status is that of ancient and recognized municipal bodies whose substantial character is meant to be perpetuated: *Same reference*, 57 Mich., 127.

General language in a statute will not warrant a township in exercising powers extra-territorially: *Same reference*, 57 Mich., 127.

There is no statute which allows joint action by township drain commissioners, and such action extending over more than one township is illegal: *Alger v. Slaght*, 64 Mich., 589. See *Hubbell v. Robertson*, 65 Mich., 538.

Liability of applicants for costs.	be drained thereby and to be assessed therefor may be situated, one or more of whom shall be owners of lands liable to be assessed for benefits in the construction of such drain, giving a general description of the beginning, the route and the terminus thereof. Such applicants shall be jointly and severally liable for all costs and expenses, in case the commissioner upon examination, or upon examination and survey, shall determine that the same is unnecessary or impracticable, or in case the proceedings shall be dismissed for other cause. If the persons signing such application shall refuse to pay such costs and expenses, the commissioner shall bring suit in a court of competent jurisdiction and collect such costs and expenses, with costs of suits. If upon the presentation of such application the commissioner shall deem the financial responsibility of the petitioners insufficient he shall have the right to return such application for additional signatures.
Suit for costs.	
Financial responsibility of applicants.	
When to examine route of proposed drain, etc.	199. SEC. 3. Upon the filing of such application, the commissioner authorized to act thereon shall, as soon as practicable thereafter, proceed to personally examine the route of the proposed drain, and if, in his opinion, it is necessary and conducive to the public health, convenience, or welfare, that the application should be granted, he shall, as a means of determining the practicability thereof, make a survey and measurement of the line of the proposed drain, or cause the same to be made by a competent surveyor. If upon such survey he shall find such drain to be practicable, he shall make his order of determination in writing in accordance therewith, and shall establish the commencement, route, and terminus of said drain, and the width, length, and depth thereof, and shall set survey or grade stakes, not more than ten rods apart. For such purpose he shall have the right to enter upon any such lands traversed by the route of the proposed drain, or otherwise connected with the purpose of the proceeding. In locating such drain the commissioner shall not be limited or confined to the precise starting point, route, or terminus set forth in the application. The record or minutes of the survey shall show the line and route of the drain, the points where the line of the drain crosses the boundary lines of each owner's land and the length thereof upon his land, and the width of surface excavation that will be required in its construction, and shall also show, by words or letters and figures, the width of ground that will be required for the deposition of earth, and every release of right of way shall be deemed to include the extreme width thus shown.— <i>As amended by Act No. 233, Laws of 1889.</i>
To make survey, etc.	
Order of determination, etc.	
May enter upon lands.	
Not confined to starting point.	
What record of survey to show.	
Drains may be laid within right of way of railroad.	200. SEC. 16. Drains may be laid along the line of any railroad within its right of way: <i>Provided</i> , Such drain shall not be to the injury of the road bed. Whenever it is proposed to construct a drain along the line, and within the right of way of any railroad, and the company owning or operating such road shall refuse or neglect to permit such drain to be constructed, or release the right of way therefor, within the time prescribed in section five of chapter three, such release shall be obtained in the same
Release obtained as in other cases.	

manner as is provided in this act for obtaining private lands: *Provided*, That no drain shall be constructed along the line of any railroad without the consent of the company owning or operating such road, if it shall appear to the special commissioners or jury that such drain can equally well be laid on private lands. Provido.

201. SEC. 17. Whenever it is necessary to run a drain across the right of way or road bed of any railroad, it shall be the duty of the railroad company, when notified by the commissioner so to do, to make and maintain [the necessary opening through said road bed and to build and maintain] a suitable culvert. Notice in writing to make such opening, and to construct such culvert, shall be served upon such company by leaving a copy thereof with the ticket or freight agent, or general officer of such railroad company, at least thirty days before such railroad company shall become liable. Running drain across railroad.
Duty of the railroad company.
Notice, upon whom served, etc.

202. SEC. 18. In case such railroad company shall refuse or neglect to comply with the provisions of the preceding section, it shall be liable to a penalty of ten dollars for each day's refusal or neglect to make such opening and construct such culvert. The prosecuting attorney of the county in which such railroad company shall have refused or neglected to comply with the provisions of the preceding section shall, upon complaint being made by the commissioner, bring suit to collect such penalty or fines, and it shall be his duty to prosecute the same to a final determination in any court having competent jurisdiction. Penalty for refusing to make opening, etc.
Prosecuting attorney to bring suit, etc.

203. SEC. 19. Drains may be laid along and within the limits of or across any public highway. *Provided*, That when it is proposed to construct a drain in whole or in part along a public highway, the owners of the lands abutting on the side of the highway along which such drain is proposed to be laid, shall be considered as still owning the fee of such land, and it shall be necessary for the commissioner to obtain from them severally a release of their rights to so much of said highway as is necessary and proposed to be taken for the right of way of said drain and for all damages on account thereof. In case such release is not executed within the time prescribed in section five of chapter three, such release shall be obtained in the same manner as is provided in this act for obtaining private lands. Proceedings when drain is to be laid in highway.

FROM CHAPTER VII.—DRAINS TRAVERSING MORE THAN ONE COUNTY.

204. SECTION 1. Whenever it may be desired to construct a drain traversing more than one county, or affecting lands lying in more than one county, an application therefor shall be made to the county drain commissioner of either county traversed by the proposed drain. Such application shall be subject to the same conditions and the applicants to the same obligations and liabilities as in other drains under this act. Application for certain drains, to whom made.
Subject to certain conditions, etc.

205. SEC. 2. If upon examination the commissioner shall deem the same to be necessary and for the good of the public health, convenience, or welfare, he shall, as soon as practicable Notice of meeting to other commissioners, etc.

To act jointly.

thereafter, fix a time and place of meeting and notify the county drain commissioner or commissioners of such other county or counties to that effect, and furnish him or each of them with a certified copy of such application. Such commissioner or commissioners shall, at the time and place fixed as above, meet with the drain commissioner having the original application, and they shall thereupon and thereafter jointly take all steps, and perform all acts, and sign all papers, as drain commissioners are required to do singly in the case of other drains, including the application to the probate court.

Cleaning, etc., of drains, in two or more counties.

206. SEC. 8. Whenever a drain heretofore established and which was constructed in and traverses more than one county needs cleaning out, deepening, widening, or extending, any five freeholders of either county by which such drain is traversed, one or more of whom shall be owners of land, which at the time of its construction was assessed therefor, may make application to the commissioner of either county in which such drain is situated, setting forth the necessity thereof. If, upon examination, such commissioner shall deem the same to be necessary and for the good of the public health he shall, as soon as practicable thereafter, notify the commissioner or commissioners of such other counties and furnish them with a certified copy of such application and they shall thereupon meet and jointly take such measures as are provided in this chapter relative to drains traversing more than one county, and act in like manner as provided in chapter eight of this act in the matter of established drains.—*Added by Act No. 233, Laws of 1889.*

Joint action.

CHAPTER VIII.—ESTABLISHED DRAINS.

Provisions of act to extend to widening, cleaning out, etc., drains, etc.

207. SEC. 4. All the powers conferred by this act for establishing and constructing drains, and for the enforcement of assessments therefor, shall also extend to and include the deepening, widening, and extending of any drains which heretofore have been laid, or may hereafter be constructed; also to straightening, cleaning out and deepening the channels of creeks and streams, and the constructing, maintaining, remodeling and repairing of levees, dykes, and barriers, for the purpose of drainage. The commissioner may re-locate or extend the line of any drain, if the same be necessary, in order to provide a suitable outlet, in which case he shall cause a survey thereof to be made: *Provided*, That no proceedings affecting the rights of persons or property shall be had under this section, except upon a like application, notice, hearing, and award prescribed in this act for the construction of drains in the first instance.

Commissioner may re-locate, etc.

Proviso.

CHAPTER IX.—MISCELLANEOUS.

Removing grade stake, obstructing drain, etc., a misdemeanor.

Penalty.

208. SEC. 4. If any person shall willfully or maliciously remove any section or grade stake set along the line of any drain, or obstruct or injure any drain, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars, and the costs of prosecution, or in default of the payment thereof, by imprisonment in the county jail not exceeding ninety days.

SEWERS AS PUBLIC IMPROVEMENTS IN CITIES AND VILLAGES.*

Act No. 23, laws of 1882, entitled "An act to authorize cities and villages to construct, enlarge, and maintain sewers, as public improvements, in private property, and to repeal all laws in conflict with the provisions of this act."

209.† SECTION 1. *The People of the State of Michigan enact,* Authority of common council or trustees.
That the common council of any city and the board of trustees of any village in this State are hereby authorized to construct, enlarge, and maintain sewers, hereby declared to be public improvements, in private property; and may enter by committee and by agents and servants, into and upon private property where May enter private property. it is proposed to construct a sewer, and make necessary examinations and surveys, the better to enable them to determine the necessity for using such private property for a sewer and to locate the same, and for any such entry no action shall be maintainable. But the common council, or board of trustees, before constructing a sewer in private property, shall acquire the right to take Right to be acquired before construction of sewer. and use the property for such purpose, by agreement or purchase, or by proceedings in the proper court in behalf of the municipality, in the manner provided by law in that behalf. All laws in conflict with the provisions of this act are hereby repealed.

V.—FOODS, DRINKS, DRUGS, MEDICINES, ETC.

FISH AND FISHERIES; DISEASED MEATS AND CONTAGIOUS DISEASES IN ANIMALS; ADULTERATION OF FOODS, ETC., MANUFACTURE AND INSPECTION OF SALT; PRESCRIBING, SALE, OR ADVERTISING OF CERTAIN DRUGS AND CHEMICALS; POISONING OF FOODS, ETC.

PROTECTION OF FISH AND FISHERIES.

From Act No. 350, laws of 1865, entitled "An act to protect fish and preserve the fisheries of this State."

210. (2072.) SECTION 1. *The People of the State of Michigan enact,* Putting of offal, etc., into waters, prohibited. That it shall be unlawful for all persons to put into any of the waters of this State, where fish are taken, any offal, blood, putrid brine, putrid fish, or filth of any description; and any person so offending shall be fined in any sum not exceeding three Penalty.

*City councils have power to compel railroad, and street railroad companies to make, keep open and in repair, such ditches, drains, sewers, and culverts as may be necessary to drain their grounds and right of way properly.—Sec. 114 of this compilation, § 2561, Howell's Statutes.

City councils may drain damp, unwholesome, offensive or filthy places.—Sec. 117 of this compilation, § 2574, Howell's Statutes.

The powers of city councils in the establishment of sewers, drains, etc., are stated in Secs. 127-143 of this compilation, §§ 2605-2619, Howell's Statutes.

Village councils may regulate the making of openings in the soil of public streets for the repair of sewers, etc.—Sec. 166 of this compilation, § 2808, Howell's Statutes.

Provisions for the drainage and sewerage of some cities and villages are made in their special charters.

† See chap. XXI., Act 178 of 1873; also Sec. 24, chap. VII., Act 62 of 1875, Secs. 127-143, and 168 of this compilation.

hundred dollars, or imprisonment not exceeding thirty days, or both, at the discretion of the court.—§ 2163.

Offal, how
destroyed.

211. (2073.) SEC. 2. All fish, offal, or filth of any description whatsoever, accruing from the catching and curing of fish, shall be burned or buried ten rods distant from the beach or shore of the river or lake.—§ 2164.

Penalty for
offending
against former
sections.

212. (2077.) SEC. 6. Any act in contravention of sections two, four, and five of this act shall subject all parties concerned in the breach of the said sections, whether the actual transgressors or accessories, to a penalty of not more than one hundred dollars nor less than twenty-five dollars with all expense of prosecution, or to imprisonment in the county jail for a period not exceeding thirty days, or both, at the discretion of the court.—§ 2168.

PROTECTION AGAINST DISEASED MEAT AND AGAINST CONTAGIOUS DISEASES IN CATTLE, SHEEP, AND OTHER ANIMALS.

From Act 182, laws of 1885, as amended by acts number forty-seven and one hundred and five of the public acts of eighteen hundred and eighty-seven, and by act one hundred and twenty-five of the public acts of eighteen hundred and eighty-nine, entitled "An act to provide for the appointment of a State Live Stock Sanitary Commission and a State Veterinarian, and to prescribe their powers and duties, and to prevent and suppress contagious and infectious diseases among the live stock of the State."

Duty of persons
to report dis-
eases to health
officer.

213. SEC. 5. It shall be the duty of any person who discovers, suspects, or has reason to believe that any domestic animal belonging to him or in his charge, or that may come under his observation, belonging to other parties, is affected with any disease, whether it be a contagious or infectious disease, to immediately report such fact, belief, or suspicion, to the Live Stock Sanitary Commission, or a member thereof; * or to the local board of health or some member thereof. *As amended by Act 125, Laws of 1889.*

All Local Boards of Health, Duties of.

Duty of local
board of health
to investigate
cases reported.

214. SEC. 6. It is hereby made the duty of all local boards of health, to whom cases of contagious or infectious diseases are reported, to immediately investigate the same, either in person by some member or members of the board, or by the employment of a competent and skilled veterinarian; and should such investigation show a reasonable probability that a domestic animal is affected with a contagious or infectious disease of a malignant character, the local board of health shall immediately establish such temporary quarantine as may be necessary to prevent the spread of the disease, and report all action taken to the commission or to some member thereof; and the acts of local boards of health establishing temporary quarantine shall have the same force and effect as though established by the commission itself, until such time as the commission may take charge of the case or cases, and relieve the local board of health. All expenses incurred by local boards of health in carrying out the provisions of this act shall be paid in like manner as are other expenses incurred

Commission to
quarantine.

Expenses, how
paid.

*The present address of the President of the State Live Stock Commission is Hon. H. H. Hinds, Stanton, Mich.

by said boards in the discharge of other official duties. *Added by Act 125, Laws of 1889.*

KILLING OF DISEASED ANIMALS AND INDEMNITY FOR SAME WHEN SO KILLED.

215. SEC. 9. Whenever the commission shall direct the killing of any domestic animal or animals it shall be the duty of the commissioners to appraise the animal or animals condemned, and in fixing the value thereof the commissioners shall be governed by the value of said animal or animals at the date of appraisement.

Commission to appraise animal ordered killed.

216. SEC. 10. Whenever any live stock shall be appraised and killed by order of the commission, it shall issue to the owner of the stock so killed a certificate showing the number and kind of animals killed, and the amount in their judgment, to which the owner is entitled, and report the same to the Governor of the State, which certificate, if approved by the Governor, shall be presented to the Auditor General, who shall draw his warrant on the State Treasurer for the amount therein stated, payable out of any money in the treasury not otherwise appropriated.

To issue a certificate to owner.

To report the same to the Governor.

Auditor General to draw his warrant for amount.

217. SEC. 11. When any animal or animals are killed under the provisions of this act, by order of the commission, the owner thereof shall be paid therefor the appraised value as fixed by the appraisement hereinbefore provided for: *Provided*, The right of indemnity on account of animals killed by order of the commission under the provisions of this act, shall not extend to the owners of animals which have been brought into the State in a diseased condition, or from a State, country, territory, or district in which the disease with which the animal is affected, or to which it has been exposed, exists. Nor shall any animal be paid for by the State which may be brought into the State in violation of any law or quarantine regulation thereof, or the owner of which shall have violated any of the provisions of this act, or disregarded any rule, regulation, or order of the live stock sanitary commission or any member thereof. Nor shall any animal be paid for by the State which came into the possession of the claimant with the claimant's knowledge that such animal was diseased, or was suspected of being diseased, or of having been exposed to any contagious or infectious disease.

Owner to be paid for animal killed.

Proviso.

DISPOSITION OF ANIMAL AFFECTED WITH ANY CONTAGIOUS DISEASE.

218. SEC. 12. Any person who shall have in his possession any domestic animal affected with any contagious or infectious disease, knowing such animal to be so affected, or, after having received notice that such animal is so affected, who shall permit such animal to run at large, or who shall keep such animal where other domestic animals not affected by or previously exposed to such disease may be exposed to its contagion or infection, or who shall sell, ship, drive, trade, or give away such diseased animal or animals which have been exposed to such contagion or infection, or who shall move or drive any domestic animal in

Disposition of domestic animal affected with any contagious disease.

violation of any direction, rule or regulation, or order establishing and regulating quarantine, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than ten dollars nor more than one hundred dollars, or be imprisoned in the county jail not less than ten nor more than ninety days, or both such fine and imprisonment in the discretion of the court, for each of such diseased or exposed domestic animals which he shall permit to run at large, or keep, sell, ship, drive, trade or give away in violation of the provisions of this act.—*As amended by Act 125, Laws of 1889.*

219. SEC. 13. Any person who shall knowingly bring into this State any domestic animal which is affected with any contagious or infectious disease, or any animal which has been exposed to any contagious or infectious disease, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined in any sum not less than one hundred dollars nor more than five thousand dollars, or be imprisoned in the State prison not to exceed one year, or both such fine and imprisonment in the discretion of the court.—*As amended by Act 125, Laws of 1889.*

220. SEC. 14. Any person who owns or is in possession of live stock which is affected, or which is suspected or reported to be affected, with any infectious or contagious disease, who shall willfully prevent or refuse to allow the State veterinarian or commissioner or other authorized officer or officers to examine such stock, or shall hinder or obstruct the State veterinarian or other authorized officer or officers in any examination of, or in an attempt to examine such stock, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than ten dollars nor more than one hundred dollars, or be imprisoned in the county jail not less than ten nor more than ninety days, or both such fine and imprisonment in the discretion of the court.—*As amended by Act 125, Laws of 1889.*

221. SEC. 15. Any person who shall willfully violate, disregard or evade, or attempt to violate, disregard or evade any of the provisions of this act, or who shall willfully violate, disregard or evade any of the rules, regulations, orders or directions of the Live Stock Sanitary Commission establishing and governing quarantine, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than ten dollars nor more than one hundred dollars, or be imprisoned in the county jail not less than ten nor more than ninety days, or both such fine and imprisonment in the discretion of the court.—*As amended by Act 125, Laws of 1889.*

222. SEC. 22. This act shall be construed so as to include sheep and horses. *As amended by Act 47, Laws of 1887.*

223. SEC. 23. Any railroad company, navigation company, or other corporation, or common carrier, who shall knowingly, or willfully violate, disregard, or evade any of the provisions of this act, or who shall willfully violate, disregard, or evade any of the rules, regulations, orders, or directions of the Live Stock Sanitary Commission establishing or governing quarantine, or who shall

Penalty for bringing diseased animals into the State.

Penalty for refusing to allow the veterinarian to examine stock.

Penalty for violation of this act.

Sheep and horses included.

Relative to violation of act by railroad companies, etc.

evade, or attempt to evade any quarantine proclamation of the Governor of this State declaring quarantine limits, shall forfeit and pay to the people of the State of Michigan not less than five hundred dollars, nor more than five thousand dollars, for each and every offense, and shall be liable for all damages caused to any neat cattle by its or his failure to comply with the requirements of this act. *Added by Act 105, Laws of 1887.*

TRANSPORTATION AND YARDING OF TEXAS CATTLE.

Act 198, Laws of 1885, entitled "An act to regulate and provide for the carrying, yarding, and feeding of so-called Texas cattle while in transit into or across this State between the first day of April and the first day of November of each year.

224. SECTION 1. *The People of the State of Michigan enact,* That it shall not be lawful to transport any neat cattle into or across this State, yard, or feed the same, that have been reared or kept south of the thirty-sixth parallel of north latitude, and that have not subsequently been kept continuously at least one winter north of said parallel, and which may be brought within the limits of this State between the first day of April and the first day of November following, except in the manner hereafter provided.

Transportation across, yarding, etc., of certain cattle, unlawful.

225. SEC. 2. It shall be the duty of all railroad companies doing business in this State to receive and transport while in this State, the class of cattle mentioned in section one, only in cars that are branded or lettered legibly and distinctly and in plain view, the words "For the transportation of Texas cattle only;" and they shall not permit or allow any other class of cattle to enter those cars between the first day of April and the first day of November following: *Provided,* That cattle coming from other States for transportation through this State when it is impossible to ascertain where they came from may be shipped in such cars, but shall be treated in all respects as coming from the country south of the thirty-sixth parallel of north latitude.

Duty of railroad transporting certain cattle.

Proviso.

226. SEC. 3. It shall be the duty of any railroad company, stock yard company, or private individual owning and operating any stock yard in this State, to receive and feed the class of cattle mentioned in section one only in yards separate and apart from yards used for the feeding or yarding of other cattle; and these yards shall be in the immediate vicinity and contiguous to a railroad side track so that these cattle may not pass over any open common that might be crossed by other cattle; and said yards shall have a sign posted at each entrance thereto, on which shall be plainly lettered "For the yarding of Texas cattle only," and no other cattle shall be admitted to these yards between the first day of April and the first day of November of each year.

Care of certain cattle at stock yards.

Location of such yards; passing to.

Entrance sign.

227. SEC. 4. Any railroad company, stock yard company, or private individual owning any stock yard in this State, who shall violate any of the provisions of sections one and two of this act, shall forfeit and pay to the people of the State of Michigan not less than fifty dollars nor more than five hundred dollars for each and every such offense, and shall be liable for any and all dam-

Penalty for violation.

Fine.

Liability for damages. ages caused to any neat cattle by their failure to comply with the requirements of this act.

Certain violation a misdemeanor. 228. SEC. 5. Any person or person [persons] who shall knowingly or willfully place or attempt to place any neat cattle, or others than those mentioned in section one, in any car or yard provided for in section two or three of this act, and branded and lettered as therein provided for between the first day of April and the first day of November following, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than ten dollars nor more than one hundred dollars, or be imprisoned not less than ten days nor more than sixty days, or both such fine and imprisonment in the discretion of the court. *As amended by Act 57, Laws of 1887.*

Punishment.

DISEASED SHEEP.

Act No. 185, laws of 1863, entitled "An act to prevent the importation, running at large, and sale of diseased sheep."

Penalty for importing, etc., diseased sheep. 229. (2069.) SECTION 1. *The People of the State of Michigan enact*, That it shall not be lawful for the owner of sheep, or any person having the same in charge, knowingly to import or drive into this State, sheep having any contagious disease; and any person so offending shall be deemed guilty of a misdemeanor, and shall be punished by fine in any sum not less than fifty dollars, and in default of the payment thereof, by imprisonment in the county jail not more than three months.—§ 2133.

Penalty for allowing diseased sheep to run at large. 230. (2070.) SEC. 2. That any person being the owner of sheep, or having the same in charge, who shall turn out or suffer any sheep having any contagious disease, knowing the same to be so diseased, to run at large upon any common, highway, or unclosed lands, or who shall sell or dispose of any sheep, knowing the same to be so diseased, without first apprising the purchaser thereof of such disease, shall be deemed guilty of a misdemeanor, and shall be punished by fine in any sum not less than fifty dollars nor more than one hundred dollars, and in default of the payment thereof, by imprisonment in the county jail not more than three months.—§ 2134.

Sale.

Damages in civil action. 231. (2071.) SEC. 3. Nothing in this act shall be so construed as to prevent the recovery of damages, in civil actions, against any person or persons who shall import or drive such diseased sheep into this State, or who shall allow such diseased sheep to run at large, or who shall sell such diseased sheep—§ 2135.

PROTECTION AGAINST THE INFECTION OF FOOT-ROT IN SHEEP.

Act No. 166, laws of 1879, entitled "An act to prevent the infection of foot-rot among sheep."

Unlawful to allow or drive on highway, sheep infected with foot-rot. 232. SECTION 1. *The People of the State of Michigan enact*, That it shall be unlawful for any person or persons to allow to run at large on, or to drive along any highway in this State between the first day of May and the first day of November of each year, any sheep known to be infected with the disease known as the foot-rot.—§ 2136.

233. SEC. 2. Any person or persons violating the provisions of the foregoing section, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall pay a fine not less than twenty-five nor more than one hundred dollars, in the discretion of the court, in addition to the costs of prosecution; and in case the fine imposed, and the costs of prosecution shall not be paid, the defendant shall be confined in the county jail not less than thirty days nor more than sixty days, in the discretion of the court.—§ 2136a.

Penalty.

SALE OF DISEASED, CORRUPTED, OR UNWHOLESOME PROVISIONS.

Mass. R. S. Ch. 131.

234.* (7726.) SECTION 1. If any person shall knowingly sell any kind of diseased, corrupted, or unwholesome provisions, whether for meat or drink, without making the same fully known to the buyer, he shall be punished by imprisonment in the county jail not more than six months, or by fine not exceeding two hundred dollars.—§ 9316.

Selling unwholesome provisions without notice.

ADULTERATION OF FOODS, DRINKS, DRUGS, OR MEDICINES.

235. (7727.) SEC. 2. If any person shall fraudulently adulterate, for the purpose of sale, any substance intended for food, or any wine, spirits, malt liquor, or other liquor intended for drinking, he shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding three hundred dollars, and the article so adulterated shall be forfeited and destroyed.—§ 9317.

Adulterating food or liquors. Mass. R. S. Ch. 131.

236. (7728.) SEC. 3. If any person shall fraudulently adulterate, for the purpose of sale, any drug or medicine, in such manner as to render the same injurious to health, he shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding four hundred dollars, and such adulterated drugs and medicines shall be forfeited and destroyed.—§ 9318.

Adulterating drugs or medicines. Mass. R. S. Ch. 131.

ADULTERATION OF FOODS, DRINKS, AND MEDICINES, AND SALE THEREOF WHEN ADULTERATED.

Act No. 254, laws of 1881, entitled "An act to prevent and punish the adulteration of articles of food, drink, and medicine, and the sale thereof when adulterated."

237. SECTION 1. *The People of the State of Michigan enact,* That no person shall mix, color, stain, or powder, or order or permit any other person to mix, color, stain, or powder any article of food with any ingredient or material so as to render the article injurious to health, with the intent that the same may be sold; and no person shall knowingly sell or offer for sale any such article so mixed, colored, stained, or powdered—§ 9324.

Adulteration of food prohibited.

238. SEC. 2. No person shall, except for the purpose of compounding in the necessary preparation of medicine, mix, color,

Adulteration of medicine prohibited.

*234. Sections 7726-33, C. L. 1871 (Secs. 234-6, 286-9 of this compilation), are from chapter 159 of revised statutes of 1846, chapter 250, comp. laws of 1871, §§ 9316-22 Howell's Statutes, entitled "Offenses against the public health."

stain, or powder, or order or permit any other person to mix, color, stain, or powder any drug or medicine with any ingredient or ingredients or materials so as to affect injuriously the quality or potency of such drug or medicine, with intent to sell the same, or shall sell or offer for sale any such drug or medicine so mixed, colored, stained, or powdered.—§ 9325.

Notice that articles are adulterated to be placed on package.

239. SEC. 3. No person shall mix, color, stain, or powder any article of food, drink, or medicine, or any article which enters into the composition of food, drink, or medicine, with any other ingredient or material, whether injurious to health or not, for the purpose of gain or profit, or sell or offer the same for sale, or order or permit any other person to sell or offer for sale any article so mixed, colored, stained, and powdered, unless the same be so manufactured, used, or sold, or offered for sale under its true and appropriate name, and notice that the same is mixed or impure is marked, printed, or stamped upon each package, roll, parcel, or vessel containing the same, so as to be and remain at all times readily visible, or unless the person purchasing the same is fully informed by the seller of the true name and ingredients (if other than such as are known by the common name thereof) of such article of food, drink, or medicine at the time of making sale thereof or offering to sell the same.—§ 9326.

Articles mixed must be stamped with true name and percentage of mixture, etc.

240. SEC. 4. No person shall mix any glucose or grape sugar with syrup, honey, or sugar intended for human food, or any oleomargarine, suine, beef fat, lard, or any other foreign substance, with any butter or cheese intended for human food, or shall mix or mingle any glucose or grape sugar or oleomargarine with any article of food, without distinctly marking, stamping, or labeling the article, or the package containing the same, with the true and appropriate name of such article, and the percentage in which glucose or grape sugar, oleomargarine, or suine, enter into its composition; nor shall any person sell, or offer for sale, or order or permit to be sold, or offered for sale, any such food into the composition of which glucose, or grape sugar, or oleomargarine, or suine has entered, without at the same time informing the buyer of the fact, and the proportions in which such glucose or grape sugar, oleomargarine, or suine has entered into its composition.—§ 9327.

Penalty for violation of act.

241. SEC. 5. Any person convicted of violating any provision of any of the foregoing sections of this act shall be fined not more than fifty dollars or imprisoned in the county jail not exceeding three months.—§ 9328.

Duty of prosecuting attorney.

242. SEC. 6. It is hereby made the duty of the prosecuting attorneys of this State to appear for the people and to attend to the prosecution of all complaints under this act in all the courts in their respective counties.—§ 9329.

Acts repealed.

243. SEC. 7. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.—§ 9330.

ADULTERATION OF CANDY, CONFECTIONERY, AND HONEY, AND SALE OF SAME WHEN ADULTERATED.

Act 11, Laws of 1887, entitled "An act to prevent the adulteration of candies and confectioneries and the sale thereof, when so adulterated as to be injurious to the public health."

244. SECTION 1. *The People of the State of Michigan enact*, Adulteration of candies.
That any person or persons manufacturing for sale or knowingly selling or offering to sell any candies or confectioneries adulterated by the admixture of terra alba, barytes, talc, or other earthy or mineral substances, or any poisonous colors, flavors, or extracts, or other deleterious ingredients detrimental to health, shall upon proper conviction thereof, before a court of competent jurisdiction, be punished by a fine not less than ten nor more than one hundred dollars, or imprisonment in the county jail not less than ten nor more than thirty days, or both such fine and imprisonment in the discretion of the court. Punishment for.

245. SEC. 2. It is hereby made the duty of the local health officer or local board of health having jurisdiction thereof to investigate without unnecessary delay all complaints that may be properly brought before them and containing facts as supported by affidavit of the parties complaining of the adulteration or sale of adulterated candies or confectioneries, and if after investigation by such officer or board reasonable cause for action is found to exist, then such officer or board shall at once give notice to the prosecuting attorney of the county in which such complaint is made, and make or cause to be made, before a proper officer, a formal complaint in writing and duly verified, and thereupon said prosecuting attorney shall immediately commence proceedings against the person or persons so offending. Duties of health officers.
Of prosecuting attorney.

SALE OF ADULTERATED HONEY.

Act 27, laws of 1885, entitled, "An act to regulate the sale of adulterated honey."

246. SECTION 1. *The People of the State of Michigan enact*, Unlawful sale of.
That it shall not be lawful for any person, knowingly, to sell, or offer for sale, any compounded or manufactured honey, unless each package or vessel shall be marked or labeled as such, and bearing the name of the manufacturer or compounder, either written or printed thereon. Packages to be labeled.

247. SEC. 2. Any person violating the provisions of this act, shall, on conviction thereof, be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than ten nor more than twenty-five dollars for the first offense, and for each offense thereafter, not less than twenty-five dollars, nor more than fifty dollars, or imprisonment in the county jail for any time not exceeding three months, or both such fine and imprisonment, in the discretion of the court. Penalty.

MANUFACTURE AND SALE OF VINEGAR.

Act 224, laws of 1889, entitled, "An act in relation to the manufacture and sale of vinegar."

248. SECTION 1. *The People of the State of Michigan enact*, Unlawful to sell as cider vinegar any impure article, etc.
That every person who manufactures for sale, or offers or exposes

for sale as cider vinegar, any vinegar not the legitimate product of pure apple juice, known as apple cider, or vinegar not made exclusively of said apple cider, or vinegar into which foreign substances, drugs or acids have been introduced, as may appear on proper test, or any adulterated vinegar, as provided in section four of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be punished for every offense by a fine of not less than fifty dollars, nor more than one hundred dollars and the costs of prosecution, or by imprisonment in the county jail not to exceed ninety days.

Unlawful to sell vinegar containing certain articles.

249. SEC. 2. Every person who shall manufacture for sale, or offer or expose for sale, any vinegar found upon a proper test to contain any preparation of lead, copper, sulphuric acid, or other ingredients injurious to health, shall be guilty of a misdemeanor, and upon conviction thereof be punished as provided in section one.

Unlawful to sell, label or brand, etc.

250. SEC. 3. No person by himself, or by his agent or employé shall sell, or offer for sale, exchange, deliver or have in his custody or possession, with intent to sell or exchange, or expose or offer for sale or exchange, any adulterated vinegar, or shall label, brand, sell or offer for sale as cider vinegar, or as apple vinegar, any vinegar not the legitimate product of pure apple juice, or that is not made exclusively from apple cider.

Color and test of vinegar.

251. SEC. 4. All vinegars sold or offered for sale, exchange or delivery, shall be without artificial coloring matter, and shall have an acidity equivalent to the presence of not less than four per cent, by weight, of absolute acetic acid, and in the case of cider vinegar, shall contain in addition not less than one and three-fourths per cent, by weight, of cider vinegar solids upon full evaporation over boiling water; and if any such vinegar contains any artificial coloring matter, or less than the above amount of acidity or in the case of cider vinegar, shall, if it contain less than the above amount of acidity or of cider vinegar solids, it shall be deemed to be adulterated within the meaning of this act, and the sale or offering for sale thereof shall be deemed a misdemeanor and punished as provided in section one.

Cask, etc., to be branded.

252. SEC. 5. Every person making or manufacturing cider vinegar for sale shall brand on one head of each cask, barrel or keg containing such vinegar, the name and location of the manufacturer or firm, and also the words "cider vinegar."

If branded, what must be.

253. SEC. 6. No vinegar shall be branded "fruit vinegar," unless the same be made wholly from apples, grapes or other fruits; and any person who shall brand or sell or offer for sale as such "fruit vinegar" any vinegar not made wholly from apples, grapes or other fruit, shall be guilty of a misdemeanor and punished as provided in section one.

ADULTERATION OF ALCOHOLIC LIQUORS, ETC., AND SALE THEREOF WHEN ADULTERATED.

From Act 213, Laws of 1889.

254. SEC. 25. If any person shall adulterate any spirituous, intoxicating, malt, brewed, fermented or vinous liquor used or intended for drink, by mixing the same in the manufacture or preparation thereof, or by process of rectifying, or otherwise, with any deleterious drug, substance, or liquid, which is poisonous or injurious to health, except as hereinafter provided, or if any person shall sell, or offer to sell, any such liquor, or shall import into this State, and sell or offer for sale such liquor, knowing the same to be adulterated, or shall sell or offer to sell any spirituous, intoxicating, malt, brewed, fermented or vinous liquor, from any barrel, cask or other vessel containing the same, and not branded as hereinafter provided, he shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars, nor less than fifty dollars, or imprisonment in the jail of the county not more than six months nor less than ten days, or both, in the discretion of the court.

Adulteration of liquor a misdemeanor, etc.

Sale of adulterated liquors a misdemeanor.

Penalty.

255. SEC. 26. It shall be the duty of any person engaged in the manufacture and sale of spirituous, intoxicating, malt, brewed, fermented or vinous liquor, or in rectifying or preparing the same in any way, to brand on each barrel, cask, or other vessel containing the same, the name or names of the person, company, or firm manufacturing, rectifying or preparing the same, and also these words, "Pure and without drugs or poisons."

What to be branded on barrel, etc.

256. SEC. 27. No person shall sell at wholesale or retail any ale, rum, wine or other malt or spirituous or intoxicating liquors from any barrel, cask or vessel, unless the same shall have been branded and marked as aforesaid.

Sale of, from barrel, etc., not branded, unlawful.

257. SEC. 28. If any barrel, cask or other vessel containing any drugged or poisoned liquor shall be found in the possession of any wholesale or retail dealer in liquors, or in the possession of any person holding himself out as such a dealer, it shall be deemed *prima facie* evidence of the violation of the provisions of this act.

Possession of barrel, etc., containing drugged liquor evidence, etc.

258. SEC. 29. Any person who shall put into any barrel, cask, or other vessel, any liquors drugged or adulterated as aforesaid, or who shall sell or offer for sale any such liquors, for the purpose and with the intent of deceiving any person in the sale thereof, or shall violate any of the provisions of sections twenty-six, twenty-seven or twenty-eight, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in section twenty-five of this act.

Putting drugged liquor, etc., into barrel, etc., a misdemeanor.

259. SEC. 30. The provisions of this act shall not be so construed as to prevent druggists and physicians from compounding liquors for [medical] medicinal purposes.

Druggists may compound, etc.

ADULTERATION OF MILK, CHEESE, AND BUTTER.

Act No. 26, laws of 1873, p. 25, entitled, "An act to prevent and punish offenders for the adulteration of milk and the products made therefrom, and to repeal an act entitled, 'An act to prevent the adulteration of milk and to prevent the traffic in impure and unwholesome milk,' approved March 31, 1871."

Provisions relative to traffic in.

260. SECTION 1. *The People of the State of Michigan enact,* That whoever shall knowingly sell to any person or persons, or sell, deliver, or bring to be manufactured to any cheese or butter manufactory in this State, any milk diluted with water, or in any way adulterated, or milk from which any cream has been taken, or milk commonly known as "skimmed milk," or shall keep back any part of the milk known as "strippings," with intent to defraud, or shall knowingly sell milk, the product of a sick or diseased animal or animals, or any milk produced from any cow fed upon the refuse of a distillery, or of a brewery, or upon any substance deleterious to the quality of the milk, or shall knowingly use any poisonous or any deleterious material in the manufacture of any cheese or butter, or shall knowingly sell or offer to sell any cheese or butter, in the manufacture of which any poisonous or deleterious substance has been used, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than ten dollars nor more than one hundred dollars; and may be committed to the county jail until such fine shall be paid: *Provided,* That such imprisonment shall not exceed ninety days; and shall be liable in double the amount of damages to the person or persons, firm, association, or corporation upon which such fraud shall have been committed. An act entitled, "An act to prevent the adulteration of milk and to prevent the traffic in impure and unwholesome milk," approved March thirty-first, eighteen hundred and seventy-one, is hereby repealed: *Provided,* That any right accrued or forfeiture incurred under said act, shall remain valid and binding, and may be enforced under said act as if the same were not repealed.—§ 2244.

Penalty for adulterating etc.

Proviso.

Double damages.

Act repealed.

Proviso.

SALE OF IMPURE, UNWHOLESOME, ADULTERATED, OR SWILL MILK; INSPECTORS.

Act No. 246, laws of 1887, entitled, "An act to prevent the sale of impure, unwholesome, adulterated, or swill milk in the State of Michigan, and to provide for inspectors," as amended by act No. 219, laws of 1889, which amends Secs. 1 and 5, and adds Secs. 9 to 14.

Unlawful to sell unwholesome milk.

261. SECTION 1. *The People of the State of Michigan enact,* That it shall be unlawful for any person, either by himself or agent, to sell or expose for sale within the State of Michigan any unwholesome, watered, or adulterated or impure milk or swill milk or colostrum, or milk from cows kept upon garbage, swill, or any substance in a state of fermentation or putrefaction or other deleterious substances, or from cows kept in connection with any family in which there are infectious diseases. The addition of water or ice to the milk is hereby declared an adulteration.

Water or ice, adulterations.

Penalty for violation of act.

262. SEC. 2. Any person who shall violate any of the provisions of the preceding section shall be punished by a fine not to

exceed one hundred dollars, or [by] imprisonment not to exceed three months, or by both such fine and imprisonment, in the discretion of the court.

263. SEC. 3. It shall be the duty of the metropolitan police commissioners of the city of Detroit, by and with the consent and advice of the board of health of the city of Detroit, to appoint an inspector, who shall be a person of previous practical experience. Said inspector may be created captain, sergeant, or roundsman of the said police force of the city of Detroit, at the option of the board of metropolitan police commissioners.

Inspector, appointment and office of.

264. SEC. 4. It shall be the duty of said inspector to personally view, so far as possible, all milk exposed for sale in said city, and to visit all dairy houses, barns, or stables in said city or the county of Wayne, to inspect the same, and the animals held therein, and to visit all places where milk is kept or exposed for sale in the city of Detroit, and to inspect and ascertain the condition of said milk. He may detail any patrolman of said city to assist him in the performance of any or all of the duties enjoined on him by this act: *Provided, always,* That said inspector and any policeman so detailed shall always be subject to the provisions of the law establishing and governing the metropolitan police of said city.

Duty of.

May detail patrolman to assist.

Proviso.

265. SEC. 5. It shall be the duty of said inspector or of his assistant, and of all other inspectors appointed under this act, to make complaint in writing before a police justice or justice of the peace, or other court having jurisdiction thereof, of every violation of this act coming to his knowledge.

Duty of inspector, or, etc., to make complaint.

266. SEC. 6. Each and every quantity of milk sold or exposed for sale, contrary to the provisions of this act, shall constitute a separate offense.

Separate offense.

267. SEC. 7. Any person who shall refuse to permit the said inspector, or his assistant [assistants], to perform his duty under this act, either by refusing him entrance to his premises or by concealing any milk, or refusing to permit any milk or animal or premises wherein the animals are kept, to be viewed and inspected as herein provided, or by in any manner hindering or resisting any said inspector or assistant inspector in the performance of his duty, shall be guilty of a misdemeanor and punished therefor.

Penalty for refusing to allow inspection, etc.

268. SEC. 8. Authority is hereby given the common council of any city, and the board of trustees or council of any village, to appoint an inspector of milk in any such city or village, and to fix their compensation, and when appointed said inspectors shall perform all duties required of inspectors as provided herein, and such other powers and duties as may be conferred or imposed by the ordinances of said cities or villages.

Any city or village may appoint inspector, etc.

269. SEC. 9. Whoever shall adulterate by himself, or by his servant or agent, or sell, exchange or deliver, or have in his custody or possession with intent to sell or exchange the same, or exposes or offers for sale or exchange, adulterated milk or milk to which water or any foreign [substance] substances in any

Penalty for adulterations.

state of fermentation or putrefaction, or from sick or diseased cows, shall be guilty of a misdemeanor, and shall, for every such offense, be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail or the State House of Correction and Reformatory at Ionia not exceeding three months.

Item as to
skimmed milk,
etc.

270. SEC. 10. Whoever shall adulterate, himself, or by his servant or agent, sell, exchange or deliver, or have in his custody or possession with intent to sell or exchange the same, or exposes or offers for sale as pure milk any skimmed milk from which the cream or any part thereof has been removed shall be guilty of a misdemeanor, and shall, for such offense, be punished by the penalty provided in the preceding section.

Notice of
skimmed milk
to be displayed.

271. SEC. 11. Any dealer in milk who shall by himself, servant or agent, sell, exchange or deliver, or have in his custody or possession with intent to sell, exchange or deliver the same, milk from which the cream or any part thereof has been removed, unless in a conspicuous place above the center upon the outside of every vessel, can, or package from which any such milk is sold, the words "Skimmed Milk" are distinctly painted in letters not less than one inch in length, shall be guilty of a misdemeanor and shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail or Detroit House of Correction not exceeding three months.

Penalty.

Grade of milk.

272. SEC. 12. If milk sold or offered for sale under the provisions of this act as pure milk, is shown upon analysis by weight to contain more than eighty-seven and fifty one-hundredths percentum of watery fluid, or to contain less than twelve and fifty one-hundredths of milk solids, percentum, or less fat than three percentum, or if the specific gravity at 60 degrees Fahrenheit is not between 1.29-1000 to 1.33-1000, it shall be deemed to be adulterated. If milk sold or offered for sale under the provisions of this act as skimmed milk has a specific gravity at 60 degrees Fahrenheit less than 1.032, and greater than 1.037, shall be deemed to be adulterated.

Duty of in-
spector to test
milk.

273. SEC. 13. Whenever any inspector of milk has reason to believe that any milk found by him is adulterated, he shall take specimens thereof and test the same with such instrument or instruments as are used for such purposes, and he shall make an analysis thereof, showing total solids, the percentage of butter, the percentage of water and the percentage of ash; and if the result of such test and analysis indicates that the milk has been adulterated or deprived of its cream or any part thereof, the same shall be *prima facie* evidence of such adulteration in a prosecution under this act.

Penalty for sell-
ing skimmed or
adulterated
milk to a fac-
tory, etc.

274. SEC. 14. Any person who shall remove the cream or any part thereof from milk to be sold as pure milk to any manufactory in which milk is used as a material in the process of production, and any person who shall, in any manner, adulterate such milk, either by the addition of water or otherwise, shall be guilty of a misdemeanor, and shall, for every such offense, be

punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail or in the Detroit House of Correction not exceeding ninety days.

DECEPTION IN THE SALE OF BUTTER.

Act No. 34, laws of 1881, entitled, "An act for the protection of dairymen, and to prevent deception in sales of butter."

275. SECTION 1. *The People of the State of Michigan enact,* That every person who shall manufacture for sale, or who shall offer or expose for sale, by the tub, firkin, box, or package, or any greater quantity, any article or substance in semblance of butter not the legitimate product of the dairy, and not made exclusively of milk or cream, but into which the oil or fat of animals not produced from milk enters as a component part, or into which melted butter, or any oil thereof has been introduced to take the place of cream, shall distinctly and durably stamp, brand, or mark upon the top and also upon the side of every such tub, firkin, box, or package of such article or substance, the word "Oleomargarine," if such article or substance is composed in part of suet or tallow, or the word "Butterine," if such article or substance is composed in part of lard, where it can be plainly seen, in Roman letters which shall be burned on, or printed thereon with permanent black paint, in a straight line, and each letter shall be not less than one inch in length; and in case of retail sales of such articles or substance, in parcels, the seller shall in all cases sell, or offer, or expose the same for sale from a tub, firkin, box, or package stamped, branded, or marked, as herein stated, and shall also deliver therewith to the purchaser a printed label bearing the plainly printed word "Oleomargarine," or "Butterine," as the same may be, with the name of the manufacturer in Roman letters not less than one-half inch in length which shall be printed in a straight line; and every sale of such article or substance by tub, firkin, box, or package, or in any greater quantity not so stamped, branded, or marked as "Oleomargarine," or "Butterine," as the same may be, and every sale of such article or substance at retail in parcels that shall not be sold from a tub, firkin, box, or package, so stamped, branded, or marked, or without delivery of a label therewith as above stated, is declared to be unlawful and void, and no action upon any contract shall be maintained in any of the courts of this State to recover upon any contract for the sale of any such article or substance not so stamped, branded, marked, labeled, or sold.—§ 2245.

Substance in semblance of butter to be stamped.

How stamped.

Label to be furnished purchaser.

When sale void.

276. SEC. 2. Every person who shall sell, or offer, or expose for sale, or who shall cause or procure to be sold, offered, or exposed for sale, by the tub, firkin, box, or package, or in any greater quantity, any article or substance required by the first section of this act to be stamped, branded, or marked, that shall not be so stamped, branded, or marked, or in case of retail sales in parcels, every person who shall sell, or offer or expose for sale,

Penalty for selling without stamping.

or who shall cause or procure to be sold, offered or exposed for sale, any article or substance required by the first section of this act to be sold, offered, or exposed for such sale from a tub, firkin, box, or package, stamped, branded, or marked, and labeled as therein stated, contrary to the provisions of said section, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than ten nor more than one hundred dollars, and the costs of prosecution, or by imprisonment in the county jail for not less than five nor more than thirty days, or by both such fine and imprisonment for each and every offense.—§ 2246.

SALE AND USE OF OLEOMARGARINE AND OTHER SUBSTANCES RESEMBLING BUTTER.

Act No. 166, Laws of 1887, entitled, "An act to regulate the sale and use of oleomargarine, butterine, and other articles and substances resembling butter, and to provide a penalty for the violation of this act."

Sale, etc., as
butter, of oleo-
margarine, etc.,
& misdemeanor.

277. SECTION 1. *The People of the State of Michigan enact,* That any person who knowingly sells, or offers for sale, as butter, any oleomargarine, butterine, or other article or substance resembling butter, and not made exclusively from milk or cream, and of which the oil or fat of animals not produced from milk is a component part, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined, for each such offense, not less than twenty-five dollars nor more than two hundred dollars, and by imprisonment in the county jail or State House of Correction and Reformatory at Ionia, not less than ninety days and not exceeding one year, or by both such fine and imprisonment, in the discretion of the court.

Proprietors of
hotels, restaur-
ants, etc., using
or permitting
use, guilty of
violation of
act.

278. SEC. 2. The proprietor or keeper of any hotel, restaurant, eating-saloon, boarding-house, or other place where food is furnished to persons paying for the same, who shall knowingly place upon the table, or use or permit to be used in the preparing of any food to be used in such place, or to be sold to any person, any oleomargarine, butterine, or other such substance resembling butter, described in section one of this act, shall be deemed as selling and as offering for sale as butter, of such substance resembling butter, within the meaning and intent and contrary to the provisions of this act, and liable and subject to the penalties prescribed for such offense.

The presence
of such oleo-
margarine, etc.,
evidence of
violation of act.

279. SEC. 3. The presence of such oleomargarine, butterine, or other substance resembling butter, in any such place before mentioned where food is sold or furnished to persons paying for the same, shall be *prima facie* evidence in any court before which any person violating the provisions of this act may be brought for examination or trial, that such person has sold and offered for sale as butter, such substance resembling butter: *Provided,* Nevertheless, that if the proprietor or keeper of such store, hotel, eating-saloon, boarding-house or other place hereinbefore mentioned, shall have placed on the outside door, and conspicuously hung in the center, and placed on the walls of any store, or room

Provido.

where food is sold or furnished, a white placard on which is printed in black ink, in plain Roman letters of not less than three inches in length, and not less than two inches in width the words, "Oleomargarine or butterine sold or used here," and shall, at all times, keep the same exposed in such conspicuous places as to be readily seen by any and all persons entering such store or room or rooms, he shall be deemed to have complied with the provisions of this act, and may use, sell and offer for sale such oleomargarine, or butterine or other substance resembling butter.

MANUFACTURE AND INSPECTION OF SALT.

Act No. 29, laws of 1889, entitled, "An act to regulate the manufacture, and provide for the inspection of salt."*

230. (1458.) SECTION 1. *The People of the State of Michigan enact*, That no salt manufactured in this State after this act takes effect, shall be sold within the State, nor exported therefrom, until the same shall first be duly inspected as provided in this act. Any person who shall violate the provisions of this section shall pay, for the use of the people of this State, as a fine, the sum of twenty cents for each bushel of salt sold or exported contrary to the provisions of this act. In case any manufacturer of salt shall knowingly sell, or export, or permit to be sold or exported, salt contrary to the provisions of this act, he shall, on conviction thereof, be liable to a fine not exceeding one thousand dollars, or imprisonment in the county jail not exceeding ninety days: *Provided*, That nothing in this act shall apply to any salt packed and in the hands of dealers when this act takes effect.—§ 1494.

Salt must be inspected.

Penalty for violating provisions of this section.

Penalty for selling or exporting in violation of this act.

Proviso.

281. (1463.) SEC. 6. The inspector shall, before entering upon the duties of his office, take the oath prescribed by the constitution of this State, which oath shall be filed in the office of the secretary of State. He shall execute a bond to the people of this State in the penal sum of seven thousand dollars, conditioned for the faithful performance of the duties of his office, which bond shall have at least two sureties, and shall be subject to the approval of the State treasurer; and when approved shall be by such treasurer filed and deposited in his office; and the inspector shall renew his bond every year. Any person or corporation injured by the neglect or default of such inspector, or by his misfeasance in office, or by the neglect, default, or malfeasance [misfeasance] of any of his deputies, may maintain an action on such bond, in the name of the people, for the use of the party prosecuting, and shall be entitled to recover the full amount of damages sustained.—*As amended by Act 249 of 1879.*—§ 1499.

Oath and bond of inspector.

Action for default or misfeasance of inspector or deputy.

282. (1470.) SEC. 13. No lime or lime-water shall be used by any person in the manufacture of salt, in the kettles, or pans, or graining-vats used for manufacturing, under a penalty of twenty-five dollars and costs for each offense, to be sued for in

No lime or lime water to be used.

* This act has been amended by Acts 56 and 199 of 1873, 86 of 1875, 90 of 1877, 249 of 1879, and 150 of 1883. As its bearings are chiefly commercial, the greater part of it is omitted here.

Proviso. the name of the people of this State: *Provided*, That iron vessels used in the manufacture of salt may be white-washed, when cool, to prevent the accumulation of rust.—§ 1506.

What qualities salt to contain. 283. (1473.) SEC. 16. The inspector or deputy inspector shall not pass any salt as good, unless he shall find it to be well made, free from dirt, filth, and stones, and from admixture of lime, or ashes of wood, and of any other substance which is injurious to salt, fully drained from pickle, the bitters properly extracted therefrom, and manufactured as directed by this act and by the rules and regulations of the inspector.—§ 1509.

Penalties for packing before inspection. 284. (1481.) SEC. 24. If any manufacturer or other person shall pack any salt before the inspector or one of his deputies shall have determined that it is fit for packing, he shall forfeit the sum of twenty-five cents for every bushel of salt so packed.—§ 1517.

Barrels, etc., once used. 285. (1482.) SEC. 25. Barrels, casks, or sacks in which salt shall have been packed and inspected, shall not again be used for the packing of salt therein until the mark or brands made by the inspector shall be first cut out or removed; and if any person shall pack, or cause to be packed, or shall aid or assist in packing any uninspected salt in any such barrels, casks, or sacks, without first cutting out or removing such marks or brands, he shall forfeit, for every bushel of salt so packed, the sum of one dollar.—§ 1518.

PREScribing POISONS, DRUGS, OR MEDICINES IN A STATE OF INTOXICATION.

Penalty on physician prescribing poison, etc., while intoxicated. 286.* (7729.) SEC. 4. If any physician or other person, while in a state of intoxication, shall prescribe any poison, drug, or medicine, to another person, he shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding five hundred dollars.—§ 9319.

SALE OF POISONS.

Penalty for neglecting to label certain substances. 287. (7730.) SEC. 5. Every apothecary, druggist, or other person who shall sell and deliver at retail any arsenic, corrosive sublimate, prussic acid, or any other substance or liquid usually denominated poisonous, without having the word "poison," and the true name thereof, and the name of some simple antidote, if any is known, written or printed upon the label attached to the vial, box, or parcel containing the same, shall be punished by a fine not exceeding one hundred dollars.—*As amended by Act 74 of 1873.*—§ 9320.

Act No. 123, laws of 1863, entitled, "An act for the better regulation of the sale of poisons."

Duty of apothecaries, etc., in the sale of poisons. 288. (7732.) SECTION 1. *The People of the State of Michigan enact*, That every apothecary, druggist, or other person who sells any arsenic, strychnine, corrosive sublimate, prussic acid, or other poison, shall keep a record of the date of such sale, the article and amount thereof sold, and the person or persons to whom delivered, and their residence; which record shall be open to the inspection of any police officer or physician during the business hours of each day. And each and every neglect to keep such

record, as herein provided, shall be deemed a misdemeanor, and the person or persons guilty thereof shall, upon conviction thereof, be liable to a fine not exceeding fifty dollars.—§ 9321. Penalty for neglect thereof.

289. (7733.) SEC. 2. The giving a false or fictitious name to the apothecary, druggist, or other person from whom such poison was purchased, shall be deemed a misdemeanor, and the person or persons guilty thereof shall, upon conviction thereof, be liable to a fine not exceeding fifty dollars.—§ 9322. Penalty for giving a false name.

ADVERTISEMENT AND SALE OF DRUGS DESIGNED TO PRODUCE ABORTION, PREVENT CONCEPTION, CURE CHRONIC FEMALE COMPLAINTS, ETC.

Act No. 138, laws of 1873, entitled, "An act to prevent the advertisement and sale of drugs or medicines designed to produce criminal abortion."

290. SECTION 1. *The People of the State of Michigan enact,* That no person shall in any manner, except as hereinafter provided, advertise, publish, sell, or publicly expose for sale any pills, powders, drugs, or combination of drugs, designed expressly for the use of females for the purpose of procuring an abortion.—§ 9312. Sale of drugs for purpose of procuring abortion prohibited.

291. SEC. 2. Any drug or medicine known to be designed and expressly prepared for producing an abortion, shall only be sold upon the written prescription of an established practicing physician of the city, village, or township in which the sale is made; and the druggist or dealer selling the same shall, in a book provided for that purpose, register the name of the purchaser, the date of the sale, the kind and quantity of the medicine sold, and the name and residence of the physician prescribing the same.—§ 9313. When drugs designed for procuring abortion may be sold.

292. SEC. 3. Any person violating any of the provisions of this act shall, upon conviction thereof, be punished by a fine of not less than twenty-five nor more than one hundred dollars, in the discretion of the court.—§ 9314. Penalty.

Act No. 106, Laws of 1869, entitled, "An act to prohibit the publication of the virtues of patent and other simple and compound medicines in the State of Michigan, in language of immoral tendency, or of ambiguous character."

293. (7724.) SECTION 1. *The People of the State of Michigan enact,* That no person or persons, their agents or clerks, shall print, stamp, or engrave on any cards, bills, or posters for public display or advertisement, or publish in any newspaper in the State of Michigan, the virtues or applications and its or their effects of any such patent and other simple or compound medicine, in language of immoral tendency or of ambiguous character. Any person or persons, their agents or clerks, who shall fail to comply with the requirements herein expressed, shall be deemed guilty of a misdemeanor, and shall be liable to a fine not less than fifty nor more than one hundred dollars, or to imprisonment in the county jail not exceeding three months, or both, for each and every offense. Any proprietor or proprietress of any newspaper published in the State of Michigan, who shall permit any such pub- Prohibiting the printing, etc., of virtues of medicine in immoral language.

Penalty.

Each appearance of such publication a new offense.

* 286. *People v. Carmichael*, 5 Mich., 19.

lications to appear in consecutive issues, each and every day shall be deemed a new and separate offense, and shall be liable to a penalty as herein expressed.—§ 9310.

Penalty for publishing, etc., circulars, etc.

294. (7725.) SEC. 2. The publication or sale within this State of any circular, pamphlet, or book containing recipes or prescriptions in indecent or obscene language for the cure of chronic female complaints or private diseases, or receipts or prescriptions for drops, pills, tinctures, or other compounds designed to prevent conception, or tending to produce miscarriage or abortion, is hereby prohibited; and for each copy thereof, so published and sold, containing such prohibited recipes or prescriptions, the publisher and seller shall each be deemed guilty of a misdemeanor, and shall be liable to the same penalties provided for a violation of the preceding section.—§ 9311.

POISONING OF FOOD, DRINK, MEDICINES, SPRINGS, WELLS, ETC.

From chapter 159, revised statutes of 1846, or chapter 244, compiled laws of 1871.

Poisoning food, wells, etc.

295.* (7536.) SEC. 27. If any person shall mingle any poison with any food, drink, or medicines, with intent to kill or injure any other person, or shall willfully poison any spring, well, or reservoir of water, with such intent, he shall be punished by imprisonment in the State prison for life, or any term of years.—§ 9101.

VI.—EXPLOSIVES, FIRE ARMS, ETC.:—

ILLUMINATING OILS, GUNPOWDER, NITRO-GLYCERINE AND OTHER EXPLOSIVES, CARRYING EXPLOSIVES IN PUBLIC CONVEYANCES, TOY-PISTOLS, SPRING-GUNS, FIRE FROM SMOKE STACKS OF STEAM VESSELS.†

INSPECTION OF ILLUMINATING OILS,

Act No. 127, laws of 1879, entitled, "An act to provide for the inspection of illuminating oils manufactured from petroleum or coal oils, and to repeal act number one hundred and eighty-one of the session laws of one thousand eight hundred and seventy-five, approved May first, one thousand eight hundred and seventy-five, and act number one hundred and ninety-six of the session laws of one thousand eight hundred and seventy-seven, approved May twenty-second, one thousand eight hundred and seventy-seven."

Appointment of inspector.

296. SECTION 1. *The People of the State of Michigan enact,* That the governor shall appoint a suitable person, resident of the State, who is not interested in manufacturing, dealing in, or vending any illuminating oils manufactured from petroleum, as State inspector of oils, whose term of office shall be two years from [the] date of appointment, or until his successor shall be appointed and shall qualify. It shall be the duty of said State inspector, or his deputies hereinafter provided, to examine and

Term of office.

Duty.

* Cases under this section are *People v. Carmichael*, 5 Mich., 10, and *People v. Edwards*, 5 Mich., 22.

† On careless use of fire-arms, see Act 69 of 1869, Secs. 552-555 of this compilation; on carrying concealed weapons, Act 129 of 1887, Secs. 556-7 of this compilation; on transportation of kerosene, gasoline, etc., see Act 191 of 1881, Secs. 419, 420 of this compilation; on sending explosive substances with intent to do bodily harm, see Act 202 of 1879, Sec. 524 of this compilation.

test the quality of all such oils offered for sale by any manufacturer, vendor, or dealer, and if, upon such testing or examination, the oils shall meet the requirement hereinafter specified, he shall fix his brand or device, viz.; "approved," with the date over his official signature, upon the package, barrel, or cask, containing the same. And to more effectually carry out the provisions of this act, it shall be lawful for the State inspector, or his deputies, to enter into or upon the premises of any manufacturer, vendor, or dealer of said oils, and if they shall find or discover any kerosene oil, or any other product of petroleum that has not been inspected and branded, according to the provisions of this act, they shall proceed to inspect and brand the same. And it shall be lawful for any manufacturer, vendor, or dealer to sell the oil so tested and approved as an illuminator; but if the oil or other product of petroleum so tested shall not meet said requirements, he shall mark in plain letters on said package, barrel, or cask, over his official signature, the words: "Rejected for illuminating purposes;" and it shall be unlawful for the owner thereof to sell such oil, or other product of petroleum, for illuminating purposes; and if any person shall sell or offer for sale such rejected oil, or other product of petroleum, for such purpose, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a penalty, in the discretion of the court, in any sum not exceeding three hundred dollars.—§ 1537.

May enter on premises for purpose of inspection.

What oil may be sold.

Penalty for selling oil marked rejected.

297. SEC. 2. The State inspector provided for in this act is hereby empowered to appoint a suitable number of deputies, which deputies are hereby empowered to perform the duties of inspection, and shall be liable to the same penalties as the State inspector: *Provided*, That the State inspector may remove any of said deputies for reasonable cause. It shall be the duty of the inspector and his deputies to provide themselves, at their own expense, with the necessary instruments and apparatus for testing the quality of said illuminating oils, and when called upon for that purpose, to promptly inspect all oils hereinbefore mentioned, and to reject, for illuminating purposes, all oils which will emit a combustible vapor at the temperature of one hundred and twenty degrees of Fahrenheit's thermometer: *Provided*, The quantity of oil used in the flash test shall not be less than half a pint. The oil tester adopted and recommended by the Michigan State board of health shall be used by the inspector and his deputies.—§ 1538.

Appointment of deputies.

Removal.
Instruments for testing oils.

Proviso.

What tester to be used.

298. SEC. 3. Every person appointed a State inspector shall, before he enters upon the discharge of the duties of his office, take an oath or affirmation prescribed by the constitution and laws of this State, and shall file the same in the office of the secretary of State. The State inspector shall execute a bond to the State of Michigan in such sum and with such surety as shall be approved by the secretary of State, conditioned for the faithful performance of the duties imposed upon him by this act; which bond shall be for the use of all persons aggrieved by the

Oath of office of inspectors.

Bond, approval and conditions of.

Oath and bond of deputy inspector, approval, filing of, etc.	acts or neglect of said inspector; and the same shall be filed with the secretary of State. The deputy inspector shall, before he enters upon the duties of his office, take such oath and file such bond, with like conditions as is required of the State inspector; said bond to be in such sum as shall be required by the State inspector, with two sureties to be approved by the judge of probate, and file such oath and bond with the clerk of the county in which such deputy inspector resides. Such deputy shall also forward the county clerk's certificate of such filing to said State inspector. Said inspectors shall collect thirteen cents for each barrel, or cask, or package containing not exceeding fifty-five gallons, and at the same proportionate rate for any excess over that quantity so inspected, and he shall pay over to the State inspector at the commencement of each month all moneys received by him for inspection; and in any case of inspection or branding, said fee shall be a lien on the oil so inspected. It shall also be the duty of every inspector or deputy inspector to keep a true and accurate record of all oils so inspected and branded by him, which record shall state the date of inspection, the number of gallons rejected, the number of gallons approved, the number of gallons inspected, the number and kind of barrels, casks, or packages, the name of the person for whom inspected, and the money received for such inspection, and said record shall be open to the inspection of all persons interested. It shall also be the duty of every deputy inspector, at the commencement of each month, to forward to the State inspector and board of State auditors true duplicate copies of such record for the preceding month. In the month of January, in each year the State inspector shall make and deliver to the Governor of the State and board of public health, annual duplicate reports of the inspections by himself and deputies during the preceding calendar year. All illuminating oils manufactured or refined in this State, shall be inspected before being removed from the manufactory or refinery, and if any person or persons, whether manufacturer, vender or dealer, shall sell or attempt to sell to any person in this State, any illuminating oil, whether manufactured in this State or not, before having the same inspected as provided in this act, he shall be deemed guilty of a misdemeanor, and he shall be subject to a penalty in any sum not exceeding three hundred dollars; and if any manufacturer, vender, or dealer in either or any of said illuminating oils, shall falsely brand the package, cask, or barrel containing the same, as provided in sections one and two of this act, or shall use packages, casks, or barrels having the inspector's brand thereon, without having the oil inspected, he shall be deemed guilty of a misdemeanor, and he shall be subject to a penalty in any sum not exceeding three hundred dollars, nor less than one hundred dollars, or be imprisoned in the county jail not exceeding six months, or both, at the discretion of the court.— <i>As amended by Act 20 of 1883.</i> —§ 1539.
Certificate of filing.	
Fees for inspection.	
Fee a lien.	
Record of inspection, what to contain.	
Duplicate copies to be sent to State inspector and board of auditors.	
Annual report to governor and board of public health.	
Oils refined, etc., in this State, inspected before removal from factory, etc.	
Penalty for selling oil before inspection.	
Penalty for falsely branding, etc.	
Penalty for selling empty	299. SEC. 4. Any person selling or dealing in illuminating oils produced from petroleum, who shall sell or dispose of any empty

kerosene barrels [barrel], cask, or package, before thoroughly canceling, removing, or effacing the inspection brand on the same, shall be guilty of a misdemeanor and on conviction shall pay a fine of one dollar for each barrel, cask, or package thus sold or disposed of; and any person who shall knowingly use any illuminating oil or products of petroleum for illuminating or heating purposes before the same has been inspected and approved by the State inspector of oils or his deputy, shall be guilty of a misdemeanor, and, on conviction, shall pay a fine in any sum not exceeding ten dollars for each offense.—*As amended by Act 49 of 1881.*—§ 1540.

barrels before
canceling
stamp.

Penalty for
using oil for
heating pur-
poses, etc.,
without
inspection.

300. SEC. 5. No person shall adulterate with paraffine or other substance for the purpose of sale or for use, any coal or kerosene oils to be used for lights in such a manner as to render them dangerous to use, nor shall any person knowingly sell or offer to sell, or knowingly use such adulterated oil, nor shall any person knowingly sell or offer for sale, or knowingly use any coal or kerosene oil, or any of the products thereof for illuminating purposes, which by reason of being adulterated, or for any other reason, will emit a combustible vapor at a temperature less than one hundred and twenty degrees of Fahrenheit's thermometer: *Provided*, That the quantity used in the test shall not be less than one-half pint: *And further provided*, That the gas or vapor from said oils may be used for illuminating purposes, when the oils from which said gas or vapor is generated are contained in closed reservoirs outside the building illuminated or lighted by said gas. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by imprisonment in the county jail not more than one year, or by fine not exceeding four hundred dollars, or by both such fine and imprisonment in the discretion of the court: *Provided*, That nothing in this act shall be so construed as to prevent the use in street lamps of lighter products of petroleum, such as gasoline, benzine, benzole, naphtha: *Provided further*, That the provisions of this act shall not apply to the use of machines or generators constructed on the principle of the "Davy Safety Lamp."—§ 1541.

Adulteration
prohibited

Sale or use of
adulterated oils
prohibited.

Proviso.

Penalty.

Proviso—not to
apply to street
lamps.

When not to
apply to ma-
chines, etc.

301. SEC. 6. The State inspector shall receive an annual salary of fifteen hundred dollars. He shall also be allowed such further sum as he may actually and necessarily expend in traveling expenses and prosecutions incurred in the discharge of his duties. Each deputy inspector shall be entitled to a salary payable monthly, the amount of such salary to be determined by the number of casks, barrels, and packages actually inspected by such deputy inspector during the month, as follows: For each of the first ten, one dollar each; for each of the second ten, seventy-five cents; for each of the third ten, sixty cents; for each of the fourth ten, fifty cents; for each of the fifth ten, forty cents; for each of the sixth ten, thirty cents; for each of the seventh ten, twenty-five cents; for each of the eighth ten, twenty cents; for each of the ninth ten, fifteen cents; for each

Salary of State
inspector.

Salary of
deputies.

- of the tenth ten, ten cents; for each of the second hundred, eight cents; for each of the third hundred, six cents; for each in excess of three hundred, five cents: *Provided*, That in no case shall any deputy inspector receive more than one hundred dollars in any month as such salary. Said deputy inspector shall also be entitled to and allowed all actual and necessary expenses for railroad, stage, and steamboat fares incurred in the discharge of his duties as such deputy inspector. All salaries and expenses provided for in this act, shall be retained by the State inspector out of the money received for inspections of oil and accounted for and paid out by him as provided in this act; *Provided*, That in case the amount of money received for the inspection of oils according to the provisions of this act, shall not be sufficient to pay the compensation and expenses of the inspector and his deputies as provided herein, the amount of such deficiency shall be deducted from said salaries *pro rata* to each.—§ 1542.
- Proviso.** **302. SEC. 7.** The State inspector shall render to the board of State auditors, quarterly, a detailed account of all the receipts and disbursements of his office, to be audited and allowed by them if found correct; and at the end of the year, any surplus shall be paid into the State treasury.—§ 1543.
- Expenses of deputies.** **303. SEC. 8.** It shall be the duty of the State inspector, or any deputy inspector, who shall know of the violation of any of the provisions of this act, to enter complaint before any court of competent jurisdiction against any person so offending; and in case the State inspector or deputy inspector, have [having] knowledge of the violation of the provisions of this act, shall neglect to enter complaint as required by and provided for in this section, he shall be deemed guilty of a misdemeanor.—§ 1544.
- How salaries paid.** **304. SEC. 9.** It shall be the duty of all prosecuting attorneys to represent and prosecute in behalf of the people, within their respective counties, all cases of offenses arising under the provisions of this act.—§ 1545.
- Account of receipts, etc., to board of state auditors.** **305. SEC. 10.** No inspector or deputy inspector shall, while in office, traffic directly or indirectly, in any article which he is appointed to inspect. For the violation of any of the provisions of this act, he shall be liable to a penalty not to exceed three hundred dollars.—§ 1546.
- Prosecution for violation of act.** **306. SEC. 11.** It shall be the duty of the governor to remove from office, and to appoint a competent person, in the place of any inspector who is unfaithful in the duties of his office.—§ 1547.
- Prosecuting attorney to prosecute.** **307. SEC. 12.** Act number one hundred and eighty-one of the session laws of eighteen hundred and seventy-five, as approved May first, eighteen hundred and seventy-five, and act number one hundred and ninety-six of the session laws of eighteen hundred and seventy-seven, as approved May twenty-third, eighteen hundred and seventy-seven, are hereby repealed.—§ 1548.
- Inspectors prohibited from dealing in oil.**
- Removal from office.**
- Act repealed.**

308. SEC. 13. This act shall take effect thirty days from and after its approval by the governor.—§ 1549.

PROTECTION FROM DANGER BY GUNPOWDER.*

From chapter 49 of Revised Statutes of 1846, or chapter 62 of Compiled Laws of 1871.

309. (2059.) SEC. 3. The inhabitants of every township or incorporated village may, at any regular meeting, order that no gunpowder shall be kept in any place within the limits of such township or village, unless the same shall be kept in tight casks or canisters; and that no gunpowder above the quantity of fifty pounds, shall be kept or deposited in any shop, store, or other building, or in any ship or vessel, which shall be within the distance of twenty-five rods from any other building, or from any wharf; that no gunpowder above the quantity of twenty-five pounds shall be kept or deposited in any shop, store, or other building within ten rods of any other building; and that no gunpowder above the quantity of one pound, shall be kept or deposited in any shop, store, or other building, within ten rods of any other building, unless the same shall be well secured in copper, tin, or brass canisters, holding not exceeding five pounds each, and closely covered with copper, brass, or tin covers.—§ 2103.

Inhabitants of townships, etc., may make regulations in relation to keeping.

310. (2060.) SEC. 4. Upon complaint made on oath to any justice of the peace, by any township or village officer, that he has probable cause to suspect that gunpowder is deposited or kept within the limits of the township or village, contrary to any such order, such justice may issue his warrant, directed to any constable of such township, or the marshal of such village, ordering him to enter any shop, store, or other building, or vessel specified in said warrant, and there to make diligent search for the gunpowder suspected to have been deposited or kept as aforesaid, and to make return of his doings to such justice forthwith.—§ 2104.

When search warrant may be issued.

311. (2061.) SEC. 5. If any person shall commit either of the offenses mentioned in the two preceding sections, he shall forfeit a sum not exceeding twenty dollars; but the two preceding sections shall not extend to any manufactory of gunpowder, nor in any case prevent the transportation thereof through any township, or from one part of any township to another part thereof.—§ 2105.

Forfeiture for violating two preceding sections.

TRANSPORTATION AND STORAGE OF NITRO-GLYCERINE AND OTHER EXPLOSIVES.

Act No. 139, Laws of 1873, entitled, "An act to regulate the transportation of nitro-glycerine and other explosive substances."

* See also for cities clause *Twenty-seventh* of Sec. 1 (§ 2555), chap. XI., and Sec. 8 (§ 2761), chap. XXIX., of Act 178 of 1873, pp. 35 and 47; and for villages, clause *Fourth*, of Sec. 1 (§ 2847), chap. VII., and Sec. 8 (§ 2963), chap. X., of Act 62 of 1875, pp. 48 and 56, and Sec. 26 (§ 3008), of Act 168 of 1857. On transportation of kerosene, gasoline, etc., see Act 191 of 1881, Secs. 419, 420, of this compilation. See also, on sending explosive substances with intent to do bodily harm, Act 202 of 1879, Sec. 524 of this compilation; on careless use of fire-arms, Act 68 of 1869, Secs. 552-553 of this compilation; on carrying concealed weapons, see Act 129 of 1887, Secs. 556-7 of this compilation.

Transportation and storage of nitro glycerine, etc., prohibited unless labeled.

312. SECTION 1. *The People of the State of Michigan enact,* That it shall be unlawful hereafter to bring within this State, or to transport, carry, ship, deposit, store, or place nitro-glycerine, giant powder, dynamites, dualine, or any other substance of which nitro-glycerine shall constitute an ingredient, or that may be exploded by concussion, in or upon any car, vessel, steamboat or other water-craft or public conveyance, wharf, or other public place within the State of Michigan, unless the package or box containing the same shall be labeled on the outside thereof, the words "Nitro-glycerine, dangerous;" and also the same shall appear as inserted or written in or upon the bill of lading, freight bill, or other evidence of transportation; thereby giving the character and nature of the articles so shipped: *Provided,* That no provision of this act shall be so construed as to permit the transportation of any of these articles on any passenger train, or freight trains to which a passenger car is attached, or upon any steamboat, propeller, or other vessel used in part or in whole for the transportation of passengers, and that no such materials shall be discharged from any railroad car, boat, or vessel, at any of the wharves, docks, or depots in this State between the hours of six A. M. and six P. M. of the day.—§ 9115.

Proviso.

Penalty.

313. SEC. 2. If any person or persons shall violate the provisions of this act, or if any person or persons shall knowingly receive, sell, or deliver any of said substances, unlawfully shipped or deposited as aforesaid, each and every person so offending shall be guilty of an offense, and on conviction thereof shall be punished by fine in any sum not exceeding two thousand dollars, or by imprisonment in the State prison not exceeding two years, or both fine and imprisonment in the discretion of the court.—§ 9116.

Goods may be seized and sold when person violating cannot be found.

314. SEC. 3. And in case any party so violating this act cannot be found or reached, the goods so unlawfully shipped shall be seized and sold, one-half of the proceeds of such sale to be given to the informer and one-half to the State.—§ 9117.

[On transportation of kerosene, benzine, naptha, or other inflammable oils or fluids, see Act 191 of 1881, Secs. 419 and 420 of this compilation.]

CARRYING OR SENDING EXPLOSIVES IN PUBLIC CONVEYANCES, AND HAVING SAME FOR UNLAWFUL PURPOSES.

Act No. 91, laws of 1889, entitled, "An act to punish any person who sends, takes, or carries, or attempts to send, take, or carry, or procure to be sent, taken, or carried, dynamite, nitro-glycerine, or other explosive substances, either as freight or baggage, on any passenger boat or vessel, or any railroad car, or train of cars, or on any street car, stage or vehicle used wholly or partly for carrying passengers."

Carrying or sending explosives in public conveyances, etc.

315. SECTION 1. *The People of the State of Michigan enact,* That no person shall order, send, take or carry, or attempt to order, send, take or carry dynamite, nitro-glycerine or any other explosive substance which explodes by concussion or friction, concealed in any bag, satchel, valise, trunk, box, or in any other manner whatever, either as freight or baggage, on any passenger boat or vessel, or any railroad car or train of cars, street car, stage or other vehicle used wholly or partly for carrying passengers.

316. SEC. 2. In case any person violates any of the provisions of section one of this act, he shall be deemed guilty of felony, and the offense shall be deemed to be committed in any county through which such person procures or attempts to procure the transportation of such dynamite, nitro-glycerine or other explosive substance, and upon conviction he shall be punished by imprisonment in the State prison not to exceed ten years: *Provided*, That such person shall be imprisoned for life or any number of years in case such dynamite, nitro-glycerine, or other explosive substance, explodes and destroys human life while in possession of any carrier, or on any boat, vessel, railroad car, street car, stage, or other vehicle, contrary to any of the provisions of section one of this act.

A felony.

Penalty.

Proviso.

317. SEC. 3. Any consignee to whom any such dynamite, nitro-glycerine, or other explosive substance has been consigned by his procurement in violation of any of the provisions of section one of this act shall be deemed guilty of felony, and shall be punished in the manner prescribed in section two of this act.

Liability of consignee.

Act No. 126, laws of 1885, "An act making it a felony to manufacture, buy, sell, furnish, or cause to be furnished, or have in possession any nitro-glycerine, dynamite, giant powder, or any other dangerous explosive material for unlawful purposes, and to provide a punishment for the same."

318. SECTION 1. *The People of the State of Michigan enact*, That any person who shall manufacture, buy, sell, furnish, or cause to be furnished, or have in possession any nitro-glycerine, dynamite, giant powder, or any other dangerous explosive material, with the intent to willfully and maliciously destroy the life or property of another, shall be deemed guilty of a felony, and on conviction thereof, shall be punished by imprisonment in the State prison for a term not less than one year nor more than twenty years.

Explosive substances.

Penalty for manufacture, sale, etc., of.

Act No. 146, Laws of 1889, entitled, "An act to require the labeling of all gasoline, benzine and naphtha sold at retail."

319. SECTION 1. *The People of the State of Michigan enact*, That every druggist, grocer or other person who shall sell and deliver at retail any gasoline, benzine or naphtha, without having the true name thereof and the words "explosive when mixed with air" plainly printed upon a label securely attached to the can, bottle or other vessel containing the same, shall be punished by a fine not exceeding one hundred dollars.

Gasoline, etc., to be labeled.

Penalty.

SALE AND USE OF TOY PISTOLS.

Act No. 138, Laws of 1883, entitled, "An act to prevent the sale and use of toy pistols."

320. SECTION 1. *The People of the State of Michigan enact*, That no person shall sell, give, or furnish to any child under the age of thirteen years, any cartridge of any form or material, or any pistol, gun, or other mechanical contrivance, specially arranged or designated for the explosion of the same.—§ 9122b.

Sale, etc., of cartridges, pistols, etc., forbidden.

321. SEC. 2. Any person, violating any of the provisions of the foregoing section, shall be deemed guilty of a misdemeanor,

Penalty for.

and upon conviction thereof, shall be punished by a fine of not less than ten dollars, nor more than fifty dollars, and costs of prosecution, or imprisonment in the county jail not less than ten days nor more than ninety days, or both such fine and imprisonment, in the discretion of the court.—§ 9122b.

Certain persons
not to have
same in their
possession.

322. SEC. 3. It shall be unlawful for any person under the age of thirteen years, to have in possession, or use any of the articles named in section one of this act.—§ 9122b.

SETTING SPRING-GUNS AND OTHER DANGEROUS DEVICES.*

Act No. 97, Laws of 1875, entitled, "An act to prevent the setting of guns and other dangerous devices."

Setting of a
spring gun, etc.,
deemed a mis-
demeanor.

323. SECTION 1. *The People of the State of Michigan enact,* That if any person shall set any spring or other gun, or any trap or device operating by the firing or explosion of gunpowder or any other explosive, and shall leave or permit the same to be left, except in the immediate presence of some competent person, he shall be deemed to have committed a misdemeanor; and the killing of any person by the firing of a gun or device so set shall be deemed to be manslaughter.—§ 9114.

Killing of
person by gun
so set deemed
manslaughter.

PROTECTION AGAINST FIRE FROM STEAM VESSELS.

Act No. 183, Laws of 1881, entitled, "An act to compel steam vessels navigating the waters of the State, to provide fire screens for smoke stacks, and to provide a penalty for its violation."

Steam vessels
to be provided
with fire
screens.

324. SECTION 1. *The People of the State of Michigan enact,* That all vessels using wood for fuel, navigating any of the waters of this State, shall be provided with suitable fire screens attached to the smoke stack of such vessels to prevent the escape of fire. Such fire screen shall be of the best approved kind, shown by experience to be proper and suitable for protection from fire.—§ 2033.

Penalty for
neglect to
provide.

325. SEC. 2. The owner or owners and master of any steam vessel, navigating the waters of this State, who shall neglect to provide his or their vessel with the fire screens attached to the smoke stacks of said vessels, as mentioned in section one of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of one hundred dollars or by confinement in the county jail not exceeding thirty days, or by both such fine and imprisonment, in the discretion of the court, and each and every day, during which such vessel is so improvided with the fire screens mentioned in section one of this act, shall be deemed a separate offense. The owner of such vessels shall also, when any person is injured in person or property by reason of fire, occasioned by the neglect of such owners of such vessels to comply with provisions of section one of this act, be liable to the amount of damages sustained to the person so injured, to be recovered in any court of competent jurisdiction in this State.—§ 2034.

Owner liable
for neglect.

* On sending explosive substances with intent to do bodily harm, see Act 202 of 1879, Sec. 524 of this compilation.

VII.—SAFETY OF PERSONS IN MANUFACTURING ESTABLISHMENTS, MINES, ETC., AND DUTIES OF CERTAIN INSPECTORS.

More on this subject is to be found under the head "II. Local Boards of Health," paragraphs 83-97, relating to public buildings.

BLOWERS WHERE EMERY WHEELS OR BELTS ARE USED.

Act 136, laws of 1887, entitled, "An act to provide for blowers in establishments where emery wheels or emery belts are used."

326. SECTION 1. *The People of the State of Michigan enact,* Factories using emery wheels, etc., to provide blowers, etc.
That all factories and workshops where emery wheels or emery belts, of any description, are used, either solid emery, leather, leather-covered, felt, canvas, linen, paper or wheels rolled in emery or corundum, shall be provided with blowers or similar apparatus, which shall be placed over, beside or under said wheels, in such manner as to carry away the dust arising from said emery wheels while in operation, directly to the outside of the building, or some receptacle placed so as to receive such dust.

327. SEC. 2. Any person, company or corporation who shall willfully neglect or refuse to comply with the provisions of this act shall, for each offense, forfeit the sum of one hundred dollars, to be recovered in an action of debt in any court of competent jurisdiction. Penalty for neglect.

328. SEC. 3. Nothing in this act shall apply to factories, saw mills, shingle mills, and workshops in which such wheels or belts are occasionally used and only by men not especially employed for that purpose. Exceptions.

LINE SHAFTING IN FAIR GROUNDS AND OTHER PUBLIC PLACES.

Act 156, laws of 1885, entitled, "An act to prevent accidents by line shafting used on fair grounds or other public places where machinery is running on exhibition."

329. SECTION 1. *The People of the State of Michigan enact,* Certain shafting to be protected so as to prevent persons from coming in contact with.
That all shafting put up for the running of machinery on exhibition in this State, where the public are invited to assemble, shall be so put up as to prevent any person or persons coming in contact with the same.

330. SEC. 2. Any person or persons using shafting as named in section one of this act, who shall refuse or neglect to comply with the same before setting said shafting in motion for exhibition, shall be guilty of a misdemeanor, and on conviction thereof shall pay a fine not exceeding one hundred dollars and costs of prosecution, or imprisonment in the county jail not exceeding ninety days, or both such fine and imprisonment, in the discretion of the court; and any company, corporation or individual shall also be liable for all damages which shall be sustained by any person by reason of such refusal or neglect. Penalty for non-compliance.

EMPLOYMENT OF CHILDREN, YOUNG PERSONS, AND WOMEN IN CERTAIN CASES.

Closely related to this subject is act 260, laws of 1881, entitled, "To provide for the protection of children," published further on under the head, "Protection to Health, Life, and Morals of Children," under the general head X.—"Certain Social Relations, Morals, etc.":—

Act 39, Laws of 1885, entitled, "An act to regulate the employment of children, young persons, and women in certain cases."

Children under ten years.

331. SECTION 1. *The People of the State of Michigan enact,* That no child under the age of ten years, shall be employed in any factory, warehouse, or workshop where the manufacture of any goods whatever is carried on, or where any goods are prepared for manufacturing.

Under 14 years, attendance at school required.

332. SEC. 2. No child under the age of fourteen years shall be employed by any person to labor in any business, unless such child shall have attended some public or private day school, where instruction was given by a teacher qualified to instruct in such branches as are usually taught in primary schools, at least four months of the twelve months next preceding the month in which such child shall be so employed, except in districts in which only three months of school are taught by a qualified teacher: *Provided,* That a certificate of such attendance from the superintendent of the school, or the director of the school district in which such child shall have so attended school, shall be evidence of a compliance with the provisions of this section, if acted upon by the employer in good faith. If any such superintendent or director shall knowingly make a false certificate, he shall be deemed guilty of a violation of this act, and shall be liable to the punishment hereinafter provided.

Proviso.

False certificate.

Disposition of certificates.

333. SEC. 3. Certificates given under the preceding section shall be deposited with the employer, at the time of employing any such child, and shall be kept by him on file in his office, and shall, at all times, be subject to inspection by the persons authorized to make inspections under this act.

Inspection of.

Under 18 years, limitation 10 hours.

334. SEC. 4. No child, or young person under the age of eighteen years, and no woman, shall be employed in any factory, warehouse, workshop, or place where the manufacture of any kind of goods is carried on, or where any goods are prepared for manufacturing, for a longer period than an average of ten hours in a day, or sixty hours in any week, and at least one hour shall be allowed in the labor period of each day for dinner.

Dinner hour.

Seats for female employees.

335. SEC. 5. Every person, who shall employ any female, in any factory, warehouse, workshop, store, or hotel shall provide suitable seats for the use of the females so employed, and shall permit the use of such seats by them, when they are not necessarily engaged in the active duties for which they are employed.

Penalty for violation of this act.

336. SEC. 6. Any person, company, or corporation who shall violate any of the provisions of this act, shall, for each offense, forfeit a penalty of fifty dollars, to be recovered before any competent court.

337. SEC. 7. In all cities it shall be the duty of the superin-

tendent or chief officer of police, by suitable inspections, to see that the regulations of this act are observed, and also to prosecute all persons who shall violate the same. Such superintendent, or chief officer of police, shall detail such portion of the force under him as he shall deem necessary for the inspection, from time to time, of all the aforesaid places where such children or young persons may be employed: (*Provided*, That, in the city of Detroit, the board of building inspectors of said city, or any member thereof, shall have concurrent jurisdiction with the superintendent or chief officer of police, with like power and authority to personally see that the regulations of this act are observed, and also to enter complaint against all persons who shall violate the same). In towns the supervisor thereof shall perform the duties above imposed on the superintendent, or chief officer of police in cities.—*As amended by Act 21, Laws of 1889.*

Enforcement of this act, by Sup't of police, required.
Inspection of factories, etc.

Proviso.

338. SEC. 8. The directors of any corporation which shall willfully neglect or refuse to obey the provisions of this act, shall each be liable to the penalties of this act: *Provided*, That the provisions of this act shall not apply to any of the penal, reformatory, or benevolent institutions of this State.

Directors of corporations liable to penalties.
Proviso.

INSPECTORS OF MINES,—THEIR DUTIES IN CERTAIN CASES.

Act 213, Laws of 1887, entitled, "An act to provide for the appointment of inspectors of mines and their deputies in certain cases, to prescribe their powers and duties and provide for their compensation."

339. SECTION 1. *The People of the State of Michigan enact*, That the board of supervisors of any county in the Upper Peninsula in this State where there are mines situated and working, are hereby authorized and directed at their first meeting after this act shall take effect, to appoint some suitable person who is a practical miner an inspector of mines, and as many deputy inspectors as, in their judgment, may be necessary for the purpose of discharging the duties hereinafter prescribed, to fix the compensation of said inspector and deputies and provide for the payment of the same, and to remove the same, or any one thereof, and appoint others in their places, whenever, in their judgment, the best interests of owners and employes may so require, and to fill vacancies arising from any other cause than removal.

Board of supervisors to appoint, fix compensation of inspectors.

340. SEC. 2. The inspector of mines, when so appointed, shall give bonds in the sum of five thousand dollars, with good and sufficient sureties, to be approved by the board of supervisors, for the faithful performance of his duties, which said bond shall be payable to the board of supervisors of the county in which said inspector shall be appointed, and shall be filed with the clerk of the county when he is so appointed, and any and all deputy inspectors in any county shall be under the supervision of the inspector of mines for that county, and their duties shall be prescribed by him.

Inspector to give bonds, etc.

341. SEC. 3. The duties of the mine inspector shall be to visit all the mines in his county producing iron ore once in every sixty days, and oftener if in his judgment necessary; and the mines

Duties of inspector.

producing gold, silver, copper and slate once in each year, and oftener if in his judgment necessary, and closely inspect the mines so visited, and condemn all such places where he shall find that the employes are in danger from any cause, whether resulting from careless mining or defective machinery or appliances of any nature; he shall compel the erection of a partition between all shafts where hoisting of ore is performed and where there are ladder-ways, where men must ascend and descend, going to and from their work. In case the mine inspector shall find that a place is dangerous from any cause as aforesaid, it shall be his duty to order the men engaged in work at the said place to quit work immediately, and he shall notify the superintendent, agent or person in charge to secure the place from the existing danger, which said notification or order shall be in writing, and shall clearly define the limits of the dangerous place, and specify the work to be done or change to be made to render the same secure, ordinary mine risks excepted. It shall also be the duty of the mine inspector to command the person, persons or corporation working said mine, or the agent or boss of such person, persons or corporation under his jurisdiction, to furnish all shafts of their mines with some secure safeguard at the top of the shaft so as to guard against accidents by persons falling therein or by material falling down the same, also a covering overhead on all the carriages on which persons ascend or descend up and down the shaft, if in his judgment it shall be practicable and necessary for the purpose of safety.

Liability of owners of mines, etc., for disobeying orders of inspector.

342. SEC. 4. If any man or men are allowed to continue work in any place condemned by the mine inspector, except to do the work required to be done to insure safety before said place has received the necessary changes to secure the safety (ordinary risks of mining excepted) of the laborers engaged therein, the person, persons or corporation operating said mine shall be liable for all accidents causing injuries or death to employes working in or about such place until the order referred to in the preceding section shall have been complied with or revoked.

Duty of owner, etc., of mines, in assisting inspector in examinations.

343. SEC. 5. It shall be the duty of the person, persons or corporation, or the superintendents or agents of the same, when the mine inspector arrives at any mine on his official business, to furnish for his inspection all maps, drawings and plans of the mine, together with plans of all contemplated changes in the manner of working the mine, or any part thereof; to furnish him with such suitable person or persons as he may desire to accompany him through the mine or any part thereof; and also to furnish him with suitable ladders and other necessary appliances to make a proper inspection; and should they, or any of them, neglect or refuse to comply with any of the provisions of this section, such refusal or neglect shall be punished by a fine of not less than one hundred nor more than five hundred dollars for each and every offense.

Salary and mileage of inspector, how paid.

344. SEC. 6. The salaries for the mine inspector and the assistants so elected shall be paid out of the treasury of the county

in which he serves on vouchers similar to those used by other county officials, and in addition thereto he shall be entitled to mileage at the rate of four cents per mile for the actual distance traveled while on official business.

345. SEC. 7. When ten persons working in any mine, or place where mining is done, shall notify the mine inspector, in writing, that his services are needed, he shall immediately make inspection, or send any one of his assistants to do so: *Provided, however,* That it shall be made to appear to said inspector that they, the said men so complaining, have called the attention of the superintendent, agent, mining captain, or boss to the condition of such place, pointed out the danger in working therein or thereat, and the said person or persons so notified have either neglected or refused to make the same secure or safe for work, ordinary mine risks excepted.

Ten persons may, by notice, cause inspection.

Proviso as to calling attention of superintendent, etc., to danger.

346. SEC. 8. It shall be the duty of each of the inspectors of mines appointed under this act to make and file with the clerk of the county for which he was appointed, at least ten days before the time fixed by law for the annual autumn meeting of the board of supervisors, an annual report of his acts and proceedings under this act, specifying, among other things, the number of mine accidents occurring during the preceding year causing either death or injury to persons, giving the name of the mine where, and the circumstances surrounding said accidents, and so classifying said accidents as to show what occurred through the fault or negligence of employers and those occurring through the fault or negligence of employes, and giving the results of inquests, if any have been held, in case of accidents causing death.

Annual report of inspector, when filed.

What to specify.

TEN HOURS, A LEGAL DAY'S WORK.

Act 137, Laws of 1885, entitled, "An act making ten hours a legal day's work."

347. SECTION 1. *The People of the State of Michigan enact,* That in all factories, workshops, salt blocks, saw-mills, logging or lumber camps, booms or drives, mines or other places used for mechanical, manufacturing, or other purposes within the State of Michigan, where men or women are employed, ten hours per day shall constitute a legal day's work, and any proprietor, stockholder, manager, clerk, foreman, or other employers of labor who shall require any person or persons in their employ to perform more than ten hours per day, shall be compelled to pay such employes for all overtime or extra hours at the regular per diem rate, unless there be an agreement to the contrary.

Where to apply.

Work in excess of ten hours.

348. SEC. 2. That in all contracts, engagements, or agreements to labor in any mechanical, manufacturing, or other labor calling, where such contracts or agreements are silent, or no express conditions specified, ten hours shall constitute a day's work, and the contract or agreement shall be so construed.

When not otherwise expressly mentioned ten hours to be day's work.

349. SEC. 3. Any individual, firm, agent of any corporation, or other employers of labor who shall take any unlawful advantage of any person or persons in their employ, or seeking employment, because of their poverty or misfortune, to invalidate any

What to be considered a misdemeanor.

- of the provisions of the preceding section, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five dollars, nor more than fifty dollars for each offense, and it shall be the duty of the prosecuting attorney of the county in which such offense was committed, upon receiving complaint, to prosecute all such cases in the name of the People of the State of Michigan, before any justice of the peace or other competent court of jurisdiction.
- Penalty.** **350.** SEC. 4. All fines collected for violation of this act shall be turned over to the school board, or board of education of the city or township wherein such fine may be collected, and the same shall by them be disbursed for and in benefit of the public schools.
- Duty of prosecuting attorney.** **351.** SEC. 5. Nothing in this act shall be construed to apply to domestic or farm laborers, or other laborers who agree to work more than ten hours per day.
- Disposition of fines.**
- Not to apply to farm, etc., laborers.**

VIII.—SAFETY OF TRAVEL :—

LAW OF THE ROAD, PUBLIC CARRIAGES, HIGHWAYS, STREETS, SIDEWALKS, CROSSWALKS, BRIDGES, CULVERTS, FERRIES, DANGER-SIGNALS AT ICE-CUTTINGS, SHAFTS, PITS, RAILROADS.

LAW OF THE ROAD, REGULATION OF PUBLIC CARRIAGES. Chap. 44 of Revised Statutes of 1846, Chap. 56 of Comp. Laws of 1871.

- Persons meeting with carriages, etc., to turn to the right.** **2 Gray, 181.** **352.*** (2002.) SECTION 1. Whenever any persons shall meet each other on any bridge or road, traveling with carriages, wagons, carts, sleds, sleighs, or other vehicles, each person shall seasonably drive his carriage or other vehicle to the right of the middle of the traveled part of such bridge or road, so that the respective carriages, or other vehicles aforesaid, may pass each other without interference.—§ 1456.
- Penalty, etc., for violating preceding section.** **353.** (2003.) SEC. 2. Every person offending against the provisions of the preceding section shall, for each offense, forfeit a sum not exceeding twenty dollars, and shall also be liable to the party injured for all damages sustained by reason of such offense: *Provided*, That proceedings shall be commenced for the recovery of such forfeiture within three months after the offense shall have been committed, and any action for such damages shall be commenced within one year after the cause of action shall have accrued.—§ 1457.
- Proviso.** **354.†** (2004.) SEC. 3. No person owning, or having the direction or control of any coach, or other carriage or vehicle, running
- Penalty for employing driver addicted to drunkenness.**

* 352. See also 2 Gray, 181. "The traveled part of the road" is not confined merely to the traveled wheel-track. *Daniels v. Clegg*, 28 Mich., 32, 42; *Clark v. Commonwealth*, 4 Pick., 125.

† 354. As to time within which suit must be brought, see *Daniels v. Clegg*, 28 Mich., 32, 46.

or traveling upon any road in this State, for the conveyance of passengers, shall employ, or continue in employment, any person to drive such coach, carriage, or other vehicle, who is addicted to drunkenness, or to the excessive use of intoxicating liquors; and if any such person shall violate the provisions of this section, he shall forfeit at the rate of five dollars per day for all the time during which he shall have kept such driver in such employment.—§ 1458.

355. (2005.) SEC. 4. If any driver, whilst actually employed in driving such coach, carriage, or vehicle, shall be guilty of intoxication, it shall be the duty of the owner or person having the charge or control of such coach, carriage, or other vehicle, on receiving written notice of the fact, signed by any passenger who witnessed the same, and certified by him under oath, forthwith to discharge such driver from such employment; and every person who shall retain or have in such service within six months after the receipt of such notice, any driver who shall have been so intoxicated, shall forfeit at the rate of five dollars per day for all the time during which he shall keep any such driver in any such employment after receiving such notice.—§ 1459.

Owner of coach, etc., to discharge driver, on notice of his being intoxicated.

356. (2006.) SEC. 5. No person driving any carriage or vehicle for the conveyance of passengers for hire upon any road or highway in this State, with or without passengers therein, shall run his horses, or cause or permit them to run, upon any occasion, or for any purpose whatever; and every person who shall offend against the provisions of this section, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding thirty days, or both, at the discretion of the court.—§ 1460.

Driver running horses guilty of misdemeanor, etc.

357. (2007.) SEC. 6. It shall not be lawful for the driver of any carriage used for the conveyance of passengers for hire, to leave the horses attached thereto, while any passenger remains in or upon the same, without making such horses fast with a sufficient halter, rope, or chain, or without some suitable person to take the charge and guidance of them, so as to prevent their running; and if any such driver shall violate the provisions of this section, he shall forfeit a sum not exceeding twenty dollars; but no prosecution shall be commenced therefor after the expiration of three months from the time of committing the offense.—§ 1461.

Penalty on driver for leaving horses unfastened.

358. (2008.) SEC. 7. The owners of every carriage running or traveling upon any turnpike road or public highway, for the conveyance of passengers for hire, shall be liable, jointly and severally, to the party injured in all cases, for all injuries and damage done by any person in the employment of such owners as a driver, while driving such carriage, to any person, or to the property of any person, whether the act occasioning such injury or damage be willful, negligent, or otherwise, in the same manner as such driver would be liable.—§ 1462.

Owners of carriage liable for injuries done by persons in their employ.

REGULATION OF THE USE OF STEAM ENGINES, WAGONS, AND OTHER VEHICLES ON PUBLIC HIGHWAYS.

Act No. 145, Laws of 1887, entitled, "An act to regulate the use of steam engines, steam wagons or other vehicles, which are in whole or in part operated by steam, on the public highways of this State, and to prohibit the blowing of steam whistles upon the public highways of this State."

Unlawful to allow steam vehicle to stand on bridge.

359. SECTION 1. *The People of the State of Michigan enact,* That it shall be unlawful for any person, company or corporation owning or controlling any carriage, vehicle, traction or other engine propelled by steam, by themselves, their servant, agent or employé, to allow the same to stand upon any bridge or culvert in any highway for taking a supply of water, or other purpose; and it shall also be unlawful to permit or use the same to pass over, through, or upon any public highway, road, or street, unless such owner, owners, agent, servant or employé shall send before the same a person of mature age, at least ten rods and not more than forty rods in advance (incorporated villages and cities excepted), to notify and warn persons traveling or using said highway, road or street with horses or other domestic animals, of the approach of such carriage, vehicle or engine.

Owner, etc., to send person in advance, when moving the same.

Duty of owners, etc., on the approach of persons with horses, etc.

And upon the approach of any person or persons with horse or horses, or other domestic animals, from behind or in front, said owner or owners, agent, servant or employé of such steam vehicle, carriage or engine having the same in charge, shall cause the same to be stopped and the steam of such engine to be immediately shut off, and to render such assistance as will enable such team or teams of horses, or domestic animals, to pass in safety; and at night said person shall carry a red light, except in incorporated cities and villages.

Blowing steam whistle on highways a misdemeanor.

360. SEC. 2. Any person or persons who, while traveling upon the public highways of this State with a steam engine, steam wagon or other vehicle which is, in whole or in part, being worked, run or operated by steam, or to which a steam whistle is attached, shall blow or sound, or cause to be blown or sounded, any steam whistle while so traveling upon the public highways of this State, shall be guilty of a misdemeanor.

Punishment for violation of act.

361. SEC. 3. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding twenty-five dollars, or by imprisonment in the county jail not exceeding fifteen days, or by both such fine and imprisonment, in the discretion of the court. Any person, company or corporation violating any of the provisions of this act shall also be liable for all damages sustained thereby by any person or persons traveling upon or using said highway with horses or other domestic animals, to be recovered in an action of trespass on the case.

Not to apply to railroads.

362. SEC. 4. This act shall not apply to railroads.

This act is ordered to take effect sixty days after approval by the Governor.

ENCROACHMENTS OF WATER-COURSES ON HIGHWAYS.

Chapter V. of Act No. 243, Laws of 1881. As amended by Act 54, Laws of 1885.

363. SECTION 1. When any public highway which passes along the bank of any lake, river, or other water-course, and which is not included in the limits of a city, or of a platted village, whether incorporated or unincorporated, shall, by the falling or washing away of the bank, or from any other cause become reduced to a width of less than fifty feet, it shall be the duty of the commissioner, acting upon his own knowledge, or on being notified thereof in writing, by any person of adult age, such notice stating the place or places where such defect exists, to proceed within ten days and examine the same, and if he finds it to be less than fifty feet wide, he shall forthwith lay out, open, and work such highway in and upon the adjacent land to the width of fifty feet; and if such land be inclosed, he shall, within ten days, give notice in writing to the owner or occupant of such land, requiring such owner or occupant within thirty days to remove the fence, hedge, or other structure forming the enclosure, back from the bank far enough to admit of such opening and working, and if such owner or occupant shall neglect to remove the same, as required by such notice, it shall be the duty of the commissioner forthwith to remove such fence or other structure, doing the owner or occupant no unnecessary damage in making such removal. In cities, and platted villages, whether incorporated or unincorporated, streets or public highways reduced in width as aforesaid, shall be restored, repaired, and protected by the municipal corporation having charge of such streets or highways. In St. Clair county streets or highways, reduced in width as aforesaid, shall be restored, repaired, and protected by the highway commissioners of the respective townships within such county where such streets or highways are situated.—§ 1365. *As amended by Act 54, Laws of 1885.*

Duty of commissioner when highway on bank of river, etc., washed away.

In cities and villages, duty of municipality.

In St. Clair Co.

364. SEC. 2. When any such highway is less than fifty feet wide, and more than thirty-five feet wide, the commissioner may, in his discretion, instead of widening the same, erect near the edge of the bank, and thereafter maintain in good order, a substantial railing or fence, which shall be at least three feet high and sufficiently strong to prevent persons, carriages, and animals from falling over such bank.—§ 1366.

Railing may be erected.

365. SEC. 3. When any dwelling house or other building shall stand so near any lake, river, or other water-course, where a highway, which is not included in the limits of a city, or of a platted village, whether incorporated or unincorporated, (and not included in the county of St. Clair) intervenes, that there shall not be room for a road at least thirty-five feet wide, then the commissioner shall, within ten days after having knowledge of the fact, give thirty days' notice in writing to the owner or occupant of the land to be taken, and to the owner or occupant of such house or other building, of his intention to open a high-

When house prevents road being widened.

way in the rear of such house or other building, and if such house or other building shall, within the said thirty days, be moved back far enough to admit of a road being opened and worked at least thirty-five feet wide in front thereof, then the commissioner shall widen such highway in front of such house or other building; but if such house or other building shall not be so removed, he shall then proceed without further delay to lay out a highway in the rear of such house or other building, not less than fifty feet wide: *Provided*, Said road shall not be laid out within one hundred feet of any dwelling house.

Proviso.

Damages where
road is widened,
etc.

366. SEC. 4. Whenever any commissioner, acting under the provisions of this chapter, shall remove or cause to be removed any fence, hedge, or other structure forming the enclosure, and shall take any land to widen a highway, or shall lay out a highway in the rear of any house or other building, he shall award such damages to the owner of the property taken, and for removing such fence, hedge, or other structure forming the enclosure when done by the owner, as to him shall seem just and reasonable, and shall tender to the person entitled thereto an order on the treasurer of his township for the amount of any damages awarded to such person; but when no owner, occupant, or agent of the property taken resides or can be found in his township, then the commissioner shall deposit such order with the clerk of his township, who shall deliver the same to the person entitled thereto when applied for; *Provided*, That any person dissatisfied with the amount of damages awarded by any commissioner in any action had under this chapter, may appeal from such award in the same manner that the action of a commissioner in laying out, altering, or discontinuing a highway, may be appealed from, and subject to the same conditions and liabilities as in such cases provided, but no such appeal shall have the effect to delay any proceedings hereinbefore by this chapter authorized to be had.—§ 1368.

Proviso.

Commissioner
to see that toll
roads are kept
in repair.

367. SEC. 5. It shall be the duty of the commissioner of highways of each township to see that all plank or gravel road companies, or companies owning or controlling any kind of toll road, maintain their roads in as good and safe condition as he is required to keep the public highways of his township. When any such plank, gravel, or toll road shall become defective, he shall serve a written notice upon any officer or agent of the company owning or controlling the same, describing the locality where such defect exists, and requiring such company to repair such defect within thirty days from the receipt of such notice; and every such company failing to comply with the requirements of such notice shall for every such offense, be subject to a penalty of fifty dollars.—§ 1369.

Expenses, how
paid.

368. SEC. 6. All proper expenses incurred by any commissioner in complying with the requirements of this chapter shall be by him reported in writing to the supervisor of his township on or before the first Monday of October following, and the super-

visor shall levy the amount thereof upon the taxable property of his township in the same manner as other township taxes.—§ 1370.

PROTECTION AND PRESERVATION OF BRIDGES.

From chap. VII., Act 243, Laws of 1881.

369. SEC. 8. The commissioner of highways of any township, or common council of any city or village, may put up and maintain, at the expense of their township, city, or village, in conspicuous places at each end of any bridge in such township, city, or village, maintained at the public charge, and the length of whose chord is not less than twenty-five feet, a notice with the following words in large characters: "Five dollars fine for riding or driving on this bridge faster than a walk;" and in case such bridge shall be over one hundred feet in length, or shall have a draw or turntable therein for the purpose of opening the same, such notice may be: "Ten dollars fine for riding or driving on this bridge faster than a walk, or driving on more than ten head of cattle at a time;" or such other sum not to exceed twenty-five dollars, may be mentioned in such notice as such commissioner or common council shall deem proper.—§ 1386.

Notice as to fast driving on bridges.

370. SEC. 9. Whoever shall offend against any such notice thus posted and there being, shall forfeit for every offense the sum mentioned in such notice, and the same may be collected in the name of such commissioner, city or village authorities, as the case may be. The provisions of this and the last preceding section shall extend to bridges owned and controlled by private persons, companies, or corporations, who are hereby vested with the same authority, touching said bridges, as are conferred upon townships and municipal corporations.—§ 1387.

Penalty for offending against notice.

FAST DRIVING OVER COUNTY BRIDGES.

Act No. 57, Laws of 1883, entitled, "An act to prevent fast driving or riding over bridges owned by counties."

371. SECTION 1. *The People of the State of Michigan enact,* That whenever any county in this State shall own any bridge across a navigable stream the board of supervisors may make rules to prevent fast riding or driving thereon, and such reasonable rules as may be so made shall have full force and effect as to all persons passing over such bridge, and any person violating the same shall be liable to a penalty as hereinafter provided, for such violation.

Fast driving and riding over bridges prohibited.

372. SEC. 2. No person shall be so liable unless those in charge of said bridge shall cause to be placed and maintained on said bridge a notice in large painted letters, as follows: "Five dollars fine for driving or riding faster than a walk on or across this bridge." Any person so offending shall be deemed guilty of a misdemeanor, and, on conviction, shall be liable to a fine not to exceed five dollars, and in default of the payment of such fine, to imprisonment in the county jail for a period not to exceed ten days.

Penalty for.

Notice to be placed on bridges.

BRIDGES OVER MILL RACES, ETC.

From Act No. 149, Laws of 1855, entitled, "An act to oblige the owners or occupiers of mills, or other water-works, to keep bridges over their races crossing public highways."

373. (1309.) SECTION 1. *The People of the State of Michigan enact*, That it shall be the duty of all owners, occupiers, or possessors of mills or other water-works, where any race or races appertaining to the same may cross a public highway, to keep a good and sufficient bridge or bridges, not less than fourteen feet in width, with a substantial railing on each side thereof, over the same, except where said mills have been erected and the races dug previous to the formation of said highway.—§ 1453.

Owners and occupiers of mills and other water-works to maintain bridges over their races.

374. (1310.) SEC. 2. In all cases where the owner or owners, occupiers, or possessors of any such mill or mills, or other water-works, shall refuse or neglect to make such bridge or bridges, or shall refuse or neglect to keep the same in good repair, it shall be the duty of the commissioner of highways of the township in which such highway may be, to proceed forthwith to erect or repair such bridge or bridges, at the expense of the person or persons whose duty it was to have erected or repaired such bridges.—*As amended by Act 65 of 1875.*—§ 1454.

SAFETY GATES ON SWING AND DRAW BRIDGES.

Act 292, Laws of 1887, entitled, "An act to provide for the introduction and use of safety gates upon swing and draw bridges."

Duty of commissioner in case of neglect of owners of mills, etc., to maintain bridges over races.

375. SECTION 1. *The People of the State of Michigan enact*, That the corporation, firm or individual, owning or operating any bridge within this State, free or toll, used for public travel, in which there shall be a draw or swing span for the passage of water craft, shall cause to be placed upon the approaches to such bridge, at either end thereof, not farther than ten feet from the landward ends of such draw or swing span, a gate or gates of not less than four and one-half feet in height, and of such design, shape and strength, as to effectually bar the progress of teams, animals and foot passengers [passers] and prevent them from passing upon such draw or swing span when such gates are closed.

Persons, etc., owning, etc., drawbridges to place gates upon the approaches to.

376. SEC. 2. Such gate or gates shall be at all times closed before such draw or swing span is opened for the passage of water craft, or any other purpose, and shall be kept closed until such draw or swing is closed, and such bridge ready for public travel. And for each and every time that the draw or swing span of any such bridge is opened for the passage of water craft, or any other purpose, without such gates or gate being closed, or without the same being kept closed during the entire time such draw or swing is open, the corporation, firm, or individual owning or operating such bridge shall forfeit the sum of ten dollars, to be collected according to the provisions of chapter two hundred and ninety-one of Howell's Annotated Statutes, being chapter two hundred and sixteen of the compiled laws of eighteen hundred and seventy-one and the amendments thereto.

Gates, when to be closed.

Penalty for neglect to close, etc.

377. SEC. 3. Any corporation, firm or individual owning or operating any bridge within this State used for public travel having a draw or swing span therein, who shall neglect or refuse to construct and maintain such safety gate or gates, so directed as aforesaid, upon either end of such bridge, shall forfeit for every such neglect the sum of one hundred dollars, and the further sum of ten dollars for each day that such refusal or neglect shall continue, which said sum so forfeited as aforesaid shall be collected as provided in section two of this act.

Penalty for neglect to construct gates.

378. SEC. 4. It is hereby made the duty of the several prosecuting attorneys of this State, within thirty days after this act shall take effect, to make personal inspection of all bridges lying wholly or partly within their respective counties, which have a draw or swing span therein, and if such gates or gate have not been placed upon any such bridge, to at once proceed against the corporation, firm or individual owning or operating such bridge for non-compliance with this act. Such prosecuting attorneys shall be entitled to receive the sum of ten cents per mile, going and returning, for every mile necessarily traveled in making inspection as aforesaid of any bridge within their jurisdiction, to be paid by the county.

Prosecuting attorneys to inspect bridges, etc.

Compensation for inspecting.

379. SEC. 5. Actions for the recovery of forfeitures and penalties incurred by reason of non-compliance with the provisions of this act shall be brought before the circuit court or the circuit court commissioner of the county in which such bridge or any part thereof is situated, but such trial shall be had by the court unless such defendants demand a jury. The fees of such commissioner, witnesses, officers and jury, if there be one, shall be the same as in criminal cases in justice courts, and shall be paid by the county.

Actions for recovery of penalties where brought.

380. SEC. 6. The circuit courts shall have power within their respective counties to compel compliance with the provisions of this act by writ of mandamus.

Power of circuit courts.

SIDEWALKS AND CROSS-WALKS IN UNINCORPORATED VILLAGES.

Act No. 176, Laws of 1881, entitled, "An act to empower overseers of highways to construct sidewalks and crosswalks in unincorporated villages."

381. SECTION 1. *The People of the State of Michigan enact,* That in all unincorporated villages, overseers of highways are hereby authorized to lay out and expend such portion of the township highway funds in their hands or under their control as they shall deem reasonable for that purpose for the construction, care, and maintenance of suitable sidewalks and cross-walks in such villages.—§ 1447.

Overseers of highways authorized to construct sidewalks in unincorporated villages.

DAMAGES BY DEFECTIVE HIGHWAYS, BRIDGES, CROSS-WALKS, ETC.

From Act 264, laws of 1887, entitled, "An act to provide for the recovery of damages for injuries caused or sustained by reason of defective public highways, streets, bridges, sidewalks, cross-walks, or culverts, and to repeal act number two hundred and forty-four of the public acts of the year eighteen hundred and seventy-nine, being compiler's sections one thousand four hundred and forty-two, one thousand four hundred and forty-three, one thousand four hundred and forty-four, one thousand four hundred and forty-five, and one thousand four hundred and forty-six of Howell's Annotated Statutes of Michigan."

Persons injured
by reason of
neglect to keep
in repair high-
ways, etc., may
recover
damages.

382. SECTION 1. *The People of the State of Michigan enact,* That any person or persons sustaining bodily injury upon any of the public highways or streets in this State, by reason of neglect to keep such public highways or streets, and all bridges, sidewalks, cross-walks and culverts on the same in reasonable repair, and in condition reasonably safe and fit for travel by the township, village, city or corporation whose corporate authority extends over such public highway, street, bridge, sidewalk, cross-walk or culvert, and whose duty it is to keep the same in reasonable repair, such township, village, city or corporation shall be liable to and shall pay to the person or persons so injured or disabled just damages, to be recovered in an action of trespass on the case before any court of competent jurisdiction.

Injury to prop-
erty by reason
of neglect to
keep in repair
highways, etc.,
damages for.

Provided.

383. SEC. 2. If any horse or other animal, or any cart, carriage, or vehicle, or other property, shall receive any injury or damage by reason of neglect by any township, village, city, or corporation to keep in repair any public highway, street, bridge, sidewalk, cross-walk or culvert, the township, village, city, or corporation whose duty it is to keep such public highway, street, bridge, sidewalk, cross-walk or culvert in repair shall be liable to and shall pay the owner thereof just damages, which may be recovered in an action of trespass on the case before any court of common jurisdiction: *Provided,* That in all actions brought under this act it must be shown that such township, village or city has had reasonable time and opportunity after knowledge by or notice to such township, village or city that such highways, streets, bridges, sidewalks, cross-walk, or culvert have become unsafe, or unfit for travel, to put the same in the proper condition for use, and has not used reasonable diligence therein after such knowledge or notice.

HIGHWAYS, STREETS, BRIDGES, ETC., MUST BE KEPT IN REPAIR.

Duty of town-
ships, villages,
etc., to keep in
repair high-
ways, etc.

384. SEC. 3. It is hereby made the duty of townships, villages, cities, or corporations to keep in reasonable repair, so that they shall be reasonably safe and convenient for public travel, all public highways, streets, bridges, sidewalks, cross-walks and culverts that are within their jurisdiction, and under their care and control, and which are open to public travel, and when the means now provided by law are not sufficient to enable any township, village or city to keep its public highways, streets, bridges, sidewalks, cross-walks and culverts in good repair such township, village or city is hereby authorized to levy such additional sum upon the taxable property of such township, village or city, not exceeding five mills on the dollar, in any one year, as will enable such township, village or city to keep its public highways, streets, bridges, sidewalks, cross-walks and culverts in good repair at all times. Highway commissioners, street commissioners, and all other officers having special charge of highways, streets, bridges, sidewalks, cross-walks, and culverts, and the care or repairing thereof are hereby made and

Highway and
street commis-
sioners, etc.,
officers of
townships, etc.

declared to be the officers of the township, village, city, or corporation wherein they are elected or appointed, and shall be subject to the general direction of such township, village, city or corporate authorities in the discharge of their several duties.

385. SEC. 4. The provisions of this act shall not apply to public highways which have not been in use for ten years; but nothing in this section shall be construed as exempting townships, villages or cities from maintaining their streets, bridges, sidewalks, cross-walks and culverts, and the approaches to bridges in safe condition for public travel.

This act not to apply to certain highways.

386. SEC. 5. No township, village or city in this State shall be liable in damages, or otherwise, to any person or persons for bodily injury, or for injury to any property sustained upon any of the public highways, streets, bridges, sidewalks, cross-walks or culverts, in such townships, villages, or cities, except under and according to the provisions of this act, and the common law liability of townships, villages and cities in this State, for or on account of bodily injuries sustained by any person by reason of neglect to keep in repair public highways, streets, bridges, sidewalks, cross-walks or culverts is hereby abrogated.

Townships, villages, etc., not liable for damages except under this act.

REGULATION OF FERRIES.

From chap. 29, Revised Statutes of 1846, chap. 30, Comp. Laws of 1871.

387. (1325.) SECTION 1. "The board of supervisors of each of the counties of this State may grant licenses for keeping ferries, in their respective counties, to as many suitable persons as they may think proper, which licenses shall continue in force for a time to be specified therein by said board, not exceeding ten years."—*As amended by Act 166 of 1859.*—§ 1463.

License of ferries authorized.

388. (1331.) SEC. 9. If any person shall use any ferry for transporting across any river, stream, or lake, persons, goods, chattels, or effects, for profit or hire, unless authorized in the manner directed in this chapter, such person shall be deemed guilty of a misdemeanor, and on conviction thereof shall be subject to such fine as the court may adjudge, not exceeding twenty dollars for each offense.—§ 1469.

Persons using ferry without license, guilty of misdemeanor.

Penalty.

389. (1334.) SEC. 12. Ferry landings shall be deemed public highways, and may be laid out, constructed, maintained, altered, or discontinued in the same manner and shall in all respects be subject to the same regulations, so far as they may be applicable, as other public highways and bridges; and any public highways along the border of, or terminating upon the waters of any stream, river, or other body of water across which a ferry is licensed, may be used as a landing for such ferry, subject to such rules and regulations as the authorities having control over highways may [be] establish; and such use shall be deemed a proper use thereof as a highway.—*Added by Act 189 of 1871.*—§ 1472.

Ferry landings deemed public highways.

DANGER-SIGNALS AT PLACES OF CUTTING ICE.

Act No. 100, Laws of 1877, entitled, "An act to compel parties engaged in securing ice to erect danger signals."

Danger signals
to be erected
when ice is cut.

390. SECTION 1. *The People of the State of Michigan enact,* That it shall be the duty of any person or persons who are, or who may hereafter be, engaged in the procuring of ice from any of the streams or lakes of this State to erect or cause to be erected, place, or cause to be placed, at or near all places where they shall be cutting ice, suitable danger-signals.—§ 9119.

Penalty for
neglect.

391. SEC. 2. Any person or persons who shall neglect or refuse to comply with the provisions of this act shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by imprisonment in the county jail not more than three months, or by fine not exceeding one hundred dollars, or by both such fine and imprisonment.—§ 9120.

ENCLOSING OR FILLING OF SHAFTS, PITS, ETC.

Act 188, Laws of 1885, entitled, "An act to provide for enclosing, filling or fencing of any shaft, pit hole, or trench on any uninclosed or unoccupied lands within this State."

Shafts, etc.,
must be fenced,
etc.

392. SECTION 1. *The People of the State of Michigan enact,* That any person or corporation who shall sink, dig or cause to be sunk or dug, any shaft, pit hole or trench on any uninclosed or unoccupied land within this State to a depth of four feet or more for the purpose of exploring for minerals or making other discoveries, shall fill the same or erect or cause to be erected around the same a good substantial fence or enclosure not less than four feet high.

Violation a
misdemeanor,
penalty for.

393. SEC. 2. Any person or agent of any corporation who shall violate the provisions of this act shall be guilty of a misdemeanor, and on conviction thereof shall be fined in a sum not exceeding one hundred dollars or imprisoned in the county jail for a period not exceeding three months in the discretion of the magistrate before whom the conviction is had, and shall in addition thereto be liable to an action for damages resulting from said non-compliance for injuries to either person or property.

RAILROADS.—SANITARY AND POLICE REGULATIONS.—COMMISSIONER OF RAILROADS.

NOTE:—The railroad laws of the State of Michigan have been compiled by the Deputy Commissioner of Railroads, and printed in a separate book, in which also is a digest of decisions, by the Supreme Court of Michigan, relating to railways. Some of the laws on "Police Regulations" have been printed in pamphlet form. Brief extracts from the railroad laws relating more especially to public health and safety are as follows:—

From Act No. 79, laws of 1873, entitled, "An act to provide for the appointment of a commissioner of railroads, and to define his powers, duties, and fix his compensation."

394. Part of Sec. 5 of this act, is as follows:—

* * * He may, also, in the same manner as the deputy commissioner is appointed, and under the same conditions and limitations as provided herein, appoint a mechanical engineer, whose duty it shall be, under the instructions of the commissioner, to

make technical inspections and reports of the condition and working of all air and power brakes and fixtures, automatic or safety couplers, heating apparatus, train signals and other appliances connected with the construction and running of locomotive engines and cars, also of the condition, character and working of yard and switch lamps, semaphore safety signals, switches, common and interlocking, frogs and guard rails, whether the same are blocked or otherwise treated, as required by law, also of the condition and [sufficiency] sufficient of bridges and other [structures] structure connected with the permanent way, and of the condition and sufficiency of all equipments, freight and passenger houses, as regards the public safety, health and convenience, and of such other matters and things as the commissioner may deem essential to a full and thorough information as to the physical condition of the several railroad properties of the State and the proper enforcement of the police regulations enacted for the control and management of the same. * * *

395. SEC. 10. Said commissioner shall, on or before the first day of January in each year, and oftener if required, make a report to the governor of his doings for the preceding year, or for the time intervening since his last report, containing such facts, statements, and explanations as will disclose the actual workings of the system of railroad transportation of freight and passengers, and its bearings upon the business prosperity, personal convenience, and safety of the people of the State, with such suggestions in relation thereto as to him may seem appropriate. * * * He shall also at such times as the governor shall direct, or at any other time he (the said commissioner) shall deem advisable, examine any particular subject connected with the condition and management of railroads, and report to the governor, in writing, his opinion and doings thereon, and his reasons therefor; all of which reports shall be laid before the legislature, at its next regular or special session thereafter.—§ 3294.

Commissioner
to report
annually to
governor.

Contents of
report.

396. SEC. 11. Said commissioner shall examine into the condition and management of all other matters concerning the business of railroads in this [the] State, so far as the same affect or relate to the interests of the public, and to the accommodation and security of passengers or persons doing business therewith; and whether such railroad companies, their officers, directors, managers, lessees, agents, and employes, comply with the laws of this State now in force, or which shall hereafter be in force, concerning them, and such other matters as he may deem important; and for such purpose said commissioner shall have the right to examine the books, papers, records, and vouchers of any railroad corporation in this State, in his discretion; and he shall have power to examine, under oath or affirmation, any and all directors, officers, managers, lessees, employes, or agents of any such railroad corporation, and any other persons, concerning any matter relating to the condition and management of the business of such corporation.—§ 3295.

Commissioner
to examine into
condition and
management of
railroads.

May examine
books and
papers, officers
and employes of
railroad corpo-
rations.

Commissioner
to examine
tracks, bridges,
etc.

May direct
rate of speed
until repaired.

Penalty for
neglect to run
as directed.

Where prosecu-
tion may be had.

May stop run-
ning of trains.

Payment of
expert.

397. SEC. 14. Whenever the commissioner shall have reasonable grounds to believe, either on complaint or otherwise, that any of the tracks, bridges, or other structures of any railroad corporation of this State are in a condition which renders any of them dangerous or unfit for the transportation of passengers with reasonable safety, it shall be his duty to inspect and examine, or cause the same to be inspected, examined, and tested by some competent person or persons, and for that purpose he, the said commissioner, may employ some person possessing especial knowledge and skill in the construction of railroads and bridges, as an expert, and if, on such examination, in his opinion, or in the opinion of said expert, any such track, bridges, or other structures or works, are unfit for the transportation of passengers with reasonable safety, it shall be his duty to give to the superintendent or other executive officer of the corporation working or operating said defective track or bridge, or other structure, notice of the condition thereof, and of the repairs necessary to place the same in a reasonably safe condition. He may also order and direct the rate of speed of passing trains over such dangerous or defective track, bridge, or other structure, until [the] said repairs shall be made, and the time within which such repairs shall be made by the company; and if any superintendent or other executive officer aforesaid, receiving such notice and order, shall willfully neglect, for the period of two days after receiving such notice or order, to direct the proper subordinate officers of said corporation to run the passenger trains over such defective track, bridge, or other structure, at the speed so prescribed by the commissioner, or if any engineer, conductor, or other employé of such company shall knowingly disobey such order, every such superintendent, officer, conductor, or employé shall be deemed guilty of a misdemeanor, and, upon conviction thereof shall be fined in any sum not exceeding five hundred dollars, or be imprisoned in the State prison or jail of the county in which such conviction is had, for a period not exceeding one year, or both such fine and imprisonment in the discretion of the court. Such superintendent, officer, conductor, or employé may be prosecuted for such offense in any of the counties of this State through which said road may run. And the said commissioner shall have power to wholly stop the running of passenger trains over such defective track, bridge, or other structure, if said company shall neglect or without reasonable cause fail to make such repairs within the time prescribed by said commissioner; and such company for each and every day that ensues thereafter, and until such repairs are made, shall forfeit and pay to the State the sum of one hundred dollars. In case of the employment of an expert, as provided for in this section, the commissioner shall issue a certificate signed by himself, which certificate shall set forth the amount of time said expert has been employed, and the pay he is to receive therefor, which certificate shall entitle the holder thereof to receive the amount mentioned therein, in the same

manner as other employés of the State are paid.—*As amended by Act 214 of 1881.*—§ 3298.

398. SEC. 17. Whenever, in the opinion of the commissioner of railroads, the safety of the public would be more efficiently secured by stationing a flagman to signal trains where a highway or street is crossed by any railroad, or when one railroad [crosses] crossing or intersects another railroad, or by the building of a gate or bridge at such highway, street, or railroad crossing or intersection, or street railway crossing, he shall direct the corporation or corporations owning or operating any such railroad or railroads to station a flagman, or to erect and maintain a bridge or gate at such crossing as the public safety may demand; and in case such flagman is directed to be stationed, or gate or bridge directed to be erected and maintained where one railroad crosses or intersects another, the expense thereof shall be borne jointly in equal proportions by the companies owning or controlling each of said railroads. Any corporation or corporations neglecting or refusing to construct and maintain such gate or bridge, or to maintain such flagman so directed as aforesaid, shall each forfeit for every such neglect or refusal the sum of one hundred dollars, and the further sum of ten dollars for every day which such neglect or refusal shall continue; and if said flagman shall neglect to display his flag, or perform such other duties as may be required of him by said commissioner, he shall, for every such neglect, be liable to a fine of twenty-five dollars, and shall also be liable for all damages sustained by any person by reason of such neglect, to be recovered in an action of tort: *Provided*, The corporation owning or operating any such railroad shall not be released from liability therefor, but shall be subject to the same liability at the option of the aggrieved party.—*As amended by Act 212, Laws of 1889.*

Flagmen at crossings.

Expenses of, etc.

Forfeiture for neglect, etc.

Fine for neglect, etc.

Proviso.

399. SEC. 19. Whenever it shall come to the knowledge of such commissioner, either upon complaint or otherwise, or he shall have reason to believe that any law or laws pertaining to railroads have been or are being violated, he may, if he deem it expedient, prosecute, or cause to be prosecuted, all corporations or persons guilty of such violation. In order to enable said commissioner to perform his duties under this act, it is hereby made his duty, at least once in each year, to visit each county in the State in which is or shall be located a railroad station, and personally examine into the management of such railroad or railroads.—§ 3303.

Prosecution for violation of railroad laws.

Commissioner to visit railroad stations.

400. SEC. 22. This act shall not be so construed as to waive or affect the right of any person injured by the violation of any law in regard to railroad corporations to sue or prosecute for his private damages in any manner allowed by law.—§ 3306.

Suit for private damages not barred.

401.* SEC. 26. The commissioner of railroads shall have power, and it shall be his duty, if he shall deem it practicable,

Commissioner to inspect and determine sufficiency of fences.

* 401. Sec. 15 of Art. IV., Act No. 193, Laws of 1873, as amended by Act No. 231, Laws of 1885, contains explicit provisions as to construction of fences, cattle-guards, farm-crossings, gates, bars, etc. See also Sec. 17 of same article, as amended by same act.

in all cases, to inspect and determine the sufficiency of all fences required by law to be constructed and maintained by railroad companies, and he may prescribe the manner of constructing, and the time within which it shall be done.—*Added by Act 175 of 1881.*—§ 3308.

To prescribe
switch and form
of signals to be
used, etc.

402. SEC. 28. Authority is hereby given to said commissioner, and it shall be his duty, if he shall deem it practicable, to prescribe the use of the interlocking switch and signal system, or some other system that will secure equal safety of the operation of trains of cars at all crossings and junctions of railroads in this State.—*As added by Act 175 of 1881, and amended by Act 212 of 1889.*—§ 3310.

RUNNING AND MANAGEMENT OF TRAINS.

From Act No. 198*, Laws of 1873, entitled, "An act to revise the laws providing for the incorporation of railroad companies, and to regulate the running and management, and to fix the duties and liabilities of all railroads, and other corporations owning or operating any railroad in this State," as amended by acts 98 of 1875, 177 of 1877, 63 and 207 of 1879, 174 of 1883.

FROM ARTICLE IV.—POLICE REGULATIONS.

Air-brakes upon
passenger
trains.

403. SECTION 1. On and after the thirty-first day of October, eighteen hundred and seventy-three, [no] on regular passenger trains shall be run in this State without an air brake or some equally effective device for controlling the speed of the trains, to be approved by the commissioner of railroads, which may be applied by the engineer to each car composing the train, and which shall at all times be kept in effective condition of repair and ready for use at the discretion of said engineer. And after the first day of October, one thousand eight hundred and ninety, all locomotive engines and tenders used on the railroads [of] in this State shall be equipped with a suitable driver and tender brake of some pattern to be approved by the commissioner of railroads, which said device shall be at all times maintained in effective condition of repair and ready for use, and from and after the said last mentioned date [no] on mixed trains, [composed] composing partly of passenger and partly of freight cars, on which the air brakes hereinbefore mentioned, provided and required, cannot be applied by the engineer to each passenger car which shall be run in this State for the transportation of passengers, unless the engine and tender on such train shall be equipped with a suitable driver and tender brake, as hereinbefore provided; and every company, person or corporation owning or operating a railroad in this state, which shall permit any trains to be run upon such roads without being equipped with brakes, as provided for in this section, shall forfeit for every train so run the sum of one hundred dollars, for the recovery of which such company, person or corporation shall be liable in an action brought by the Attorney General, or the prosecuting attorney of any county in this State, upon the application of the commissioner of railroads, in behalf of the people of the State, the penalty, when recovered, to be paid into the State treasury, and said companies, persons

Locomotives to
be equipped
with driver and
tender brake,
etc.

Penalty for
violation of law.

* By the last clause of the ninth subdivision of Sec. 9 of Art. II. the provisions of this act do not apply to the Paw Paw Railroad.

or corporations shall also be liable for all damages which shall be sustained by any person by reason of neglect or refusal to comply with the provisions of this law—*As amended by Act 182, Laws of 1889.*

404. SEC. 2. On and after July thirty-first, eighteen hundred and seventy-three, every company, person, or corporation owning or operating a railroad within this State shall construct and maintain a gate or gates, or bridge, or maintain a flagman to signal trains at every highway or street crossing on the line of such road, where the same shall be required by the commissioner of railroads as hereinafter provided. Any company, person, or corporation neglecting or refusing to construct or maintain such gate or gates, or bridge, or to maintain such flagman where so required as aforesaid, shall forfeit for every such neglect or refusal the sum of one hundred dollars, and the further sum of ten dollars for every day while such neglect or refusal shall continue.—*As amended by Act 98 of 1875.*—§ 3364.

Flagman, gate, or bridge at street crossings.

Forfeiture for not maintaining.

405. SEC. 3. Whenever, in the opinion of the commissioner of railroads, the public interests require that a gate be constructed and maintained at any railroad crossing, or a bridge be built over such railway at such crossing, or that a flagman be stationed and maintained at such crossing, he shall give to the superintendent of such railroads a written notice that the same is required; and such company, person, or corporation shall construct or maintain the same within such time thereafter as said commissioner shall prescribe.—§ 3365.

Commissioner to give notice that same is required.

406. SEC. 4. All gates which, by the provisions of this act, are under the direction of the commissioner of railroads, may be required to be constructed at street or highway crossings, shall be built in such manner, and within such time, and of such material as shall be approved by the commissioner of railroads, and shall be located on the highway or street on one or both sides of the railroad track or tracks, as the commissioner may deem the public safety to require, and shall be so constructed as when closed to obstruct and prevent any passage across such railroad or railroads from the side on which such gate may be located. There shall be a person in charge of every such gate at all hours of the day and night, and it shall be his duty to close the same at the approach of a train of cars, or of a locomotive, and to keep it open at all other times; and it shall be the duty of the gate-keeper on either side of one or more tracks to close the gate of which he is in charge on the approach of a train of cars or locomotive on either track. For every neglect of such duty, such person, upon conviction thereof, shall pay the sum of twenty-five dollars, or be imprisoned in the county jail for the period of ninety days, or both, in the discretion of the court. The expense incurred in the erection and maintenance of the gates provided for in this section, and of the neces-

Gates, location and construction of.

Duties of gate keeper.

Penalty for neglect of duty.

sary gate-keepers, shall be shared equally by the railroad companies alongside whose tracks the gates shall be located.—*As amended by Act 98 of 1875.*—§ 3366.

Use of intoxicating drinks by employes prohibited.

407. SEC. 5. No person shall be employed as an engineer, train dispatcher, fireman, baggage-master, conductor, brakeman, or other servant upon any railroad, in any of its operating departments, who uses intoxicating drinks as a beverage; and any company in whose service any such person shall knowingly be employed shall be liable to a penalty of five hundred dollars for every such offense, to be sued for in the name of the people of the State of Michigan.—§ 3367.

Liability of drunken engineer.

408. SEC. 6. If any person shall be intoxicated while in charge of a locomotive engine, running upon the road of any such company, or while acting as the conductor of any train of cars on any such road, he shall be liable for all damages incurred or produced in consequence thereof, and shall be deemed guilty of a misdemeanor: *Provided*, That this shall not affect or release the railroad company from any such liability.—§ 3368.

Proviso—company not released.

Penalty for violating rules of company.

409. SEC. 7. It shall be the duty of every railroad corporation in this State to furnish to each of its employes of every grade a printed or written copy of its rules and regulations relative to their respective duties, and any conductor, engineer, servant, or other employe of any such railroad corporation, who shall knowingly violate any of the printed or written rules or regulations of such company, shall be subject to a fine of not less than twenty-five dollars nor more than one hundred dollars, or to an imprisonment in the county jail not more than three months, or both such fine and imprisonment, in the discretion of the court.—*As amended by Act 98 of 1875.*—§ 3369.

Making up passenger trains.

410. SEC. 11. In forming a passenger train upon any railroad operated in this State, the engine shall be placed at the head of the train, and no baggage or freight car shall be placed in the rear of any passenger car; and any officer, agent, or other employe who shall cause them to be so placed, or who shall knowingly suffer the same to be done, shall be deemed guilty of a misdemeanor, and be punished accordingly.—§ 3373.

Penalty for obstructing the track.

411. SEC. 12. If any person shall, by the placing of any impediment upon the track of any railroad, or by any other means whatsoever, throw from said track any engine or cars used thereon, or attempt so to do, whether such engine or cars be thrown from said track or not, or shall by any other means whatsoever willfully endanger, or attempt to endanger, the lives of persons engaged in the work of said road, or persons traveling on the engine or cars of said road, he shall be subject to imprisonment in the State prison during his natural life, or any number of years, in the discretion of the court. And it shall not be necessary for the people to allege or prove in any such case that the person thereby intended to injure or endanger the life of any particular person or persons. Or if any person shall throw any stone, brick, or other missile at any passenger train he shall be deemed to be guilty of a misdemeanor, and on conviction thereof

Nature of the proof.

Penalty for throwing missiles at passenger trains.

he shall be fined in an amount not less than ten dollars or more than three hundred dollars, or in default of fine, imprisonment in the county jail for not less than ten or more than ninety days, or by both fine and imprisonment, in the discretion of the court.

—*As amended by Act 63 of 1879.*—§ 3374.

412. SEC. 13. A bell of at least thirty pounds weight and a steam whistle shall be placed on each locomotive engine, and said whistle shall be twice sharply sounded at least forty rods before the crossing is reached, and after the sounding of the whistle the bell shall be rung continuously, until the crossing is passed, under a penalty of one hundred dollars for every neglect;

Bell and whistle on engine, when to be used, penalty for neglect.

Provided, That at street crossings within the limits of incorporated cities or villages, the sounding of the whistle may be omitted, unless required by the common council or board of trustees of such city or village; and the company shall also be liable for all damages which shall be sustained by any person, by reason of such neglect. Every railroad corporation shall, and they are hereby required to cause signal boards to be placed, well supported by posts or otherwise, and maintained at each public road or street where the same is crossed by the railroad track at grade. The board shall be so elevated as to not obstruct the travel, and to be seen by people before reaching the crossing, and on each side of such board shall be painted in letters not less than twelve inches in height, the words "Railroad Crossing;" but such boards need not be put up in cities or villages, unless required by the proper officers thereof, or upon the order of the commissioner of railroads. This provision shall not apply to signal boards already erected.—*As amended by Act 234, Laws of 1885.*

Proviso.

Signal boards.

—§ 3375

413. SEC. 14. Every locomotive engine, passenger, freight, or other train of cars running on any railroad shall be brought to a full stop not nearer than two hundred feet nor further than eight hundred feet from any railroad crossing, and shall not cross until the way is clear, and when two passenger or freight trains come up at the same time, the train on the road first built shall have precedence provided they are both main tracks over which passengers and freights on said road are transported, but if only one is such main track, and the other is a side or depot track, then the train on the main track shall take precedence, but if one of said trains is a passenger and the other a freight train, then the former shall take the precedence, and every engineer, conductor, or other person having charge or control of said engine or train, who shall offend against the provisions of this section, shall be liable to a fine of not exceeding one hundred dollars for each violation: *Provided*, That whenever there shall be adopted and used at any such crossing an interlocking switch and signal system, or other device, which in the judgment of the commissioner of railroads will render it safe to permit engines and trains to pass over such crossings without being brought to a stop as above provided, said commissioner may, by a written order, a copy of which shall be filed and retained in his office, give per-

Trains to stop before crossing other railroads.

What train to have precedence.

Penalty for violation.

Proviso in case of interlocking switch, etc.

mission for engines and trains to pass under such regulations as to rate of speed, and in other respects as he may deem proper, which order, however, said commissioner may at any time modify or revoke.—*As amended by Act 174 of 1883.*—§ 3376.

Certain employes to be provided with uniform caps and badges.

414. SEC. 18. Every railroad corporation shall provide a uniform hat or cap and distinguishing badge to be worn by all its employés whose duties relate to the immediate transportation of passengers or their baggage. A corporation neglecting to furnish and provide such uniform hat or cap, and badges, shall forfeit one hundred dollars for each week such neglect shall continue; and if any employé for whom such uniform hat or cap and badge is provided shall neglect when on duty to wear the same, the corporation employing him shall, for each case of such neglect, forfeit the sum of five dollars; and said corporation may retain the same out of the wages of the employé so offending; no employé unless wearing his uniform hat or cap and badge shall be permitted to exercise any authority, or perform any of the duties of his office. The provisions of this section shall not apply to engineers and firemen.—*Added by Act 207 of 1879.*—§ 3380.

Lighting of passenger cars.

415. SEC. 19. No passenger car on any railroad shall be lighted by naphtha, or by any illuminating oil or fluid made in part of naphtha, or wholly or in part from coal oil or petroleum, or other substance or material which will ignite at a temperature of less than three hundred degrees Fahrenheit. Any railroad corporation which violates the provisions of this section shall forfeit a sum not exceeding five hundred dollars.—*Added by Act 207 of 1879.*—§ 3381.

FROM ARTICLE V.—MISCELLANEOUS PROVISIONS.

Companies not liable when persons are killed on platform, etc.

416. SEC. 2. In case any passenger on any such road shall be killed or injured while on the platform of a car, or while in or on any baggage or freight car, in violation of the printed regulations of the company, posted up at the time in a conspicuous place inside its passenger cars then in the train, such company shall not be liable for the injury, if the injury be occasioned by the person being improperly on such platform or within such baggage or freight car, or after having been notified by the conductor or any other person having charge of any train, that such person is not in the proper place: *Provided*, Said company at the time furnished room and seats inside its passenger cars sufficient for the proper accommodation of its passengers.—§ 3386.

Proviso—if accommodations deficient.

When death caused by wrongful act, neglect or default, company to be liable for damages.

417. SEC. 7. Whenever the death of a person shall be caused by wrongful act, neglect, or default of any railroad company, or its agents, and the act, neglect, or default is such as would (if death had not ensued) entitle the party injured to maintain an action and recover damages in respect thereof; then and in every such case, the railroad corporation which would have been liable if death had not ensued shall be liable to an action on the case for damages, notwithstanding the death of the person so injured,

and although the death shall have been caused under such circumstances as amount in law to felony.—§ 3391.

418. SEC. 22. All person or persons, railroad companies or corporations, owning or operating roads in this State shall, and are hereby required on or before the first day of January, one thousand eight hundred and eighty-four, to so adjust, fill, or block the frogs, switches, and guard rails on their roads, in all yards, divisional and terminal stations, and where trains are made up, as to prevent the feet of employes or other persons from being caught therein. Any railroad company or corporation, which shall fail to comply with the provisions of this section, shall be liable to a fine of not less than one hundred dollars, nor more than one thousand dollars, and the neglect of any such person, company, or corporation to comply with the provisions of this section shall be deemed a violation of the same. All penalties incurred under this act may be recovered in the manner provided by law for the recovery of penalties incurred by private persons.—*Added by Act 174 of 1883.**

Blocking, etc.,
of frogs,
switches, etc.

Penalty for
failure.

TRANSPORTATION OF KEROSENE, BENZINE, NAPHTHA, ETC.

Act No. 191, Laws of 1881, entitled, "An act to prohibit railroad companies from carrying on passenger trains any kerosene, benzine, naphtha, gasoline, or any inflammable oil, or fluid, other than as may be necessary to light or lubricate the cars composing the train on which such oil is carried."

419. SECTION 1. *The People of the State of Michigan enact,* That it shall not be lawful for any railroad company, or other person owning or operating any railroad within this State to carry upon any passenger train any kerosene, benzine, naphtha, gasoline, or any other inflammable oil, or fluid, other than such as may be necessary for lighting or lubricating the trains on which such oil is carried: *Provided,* That nothing in this act contained shall prohibit express companies from carrying such articles in quantities not exceeding five gallons when properly packed and labeled.—§ 3435.

Railroads not to
carry inflammable
oil or fluid.

Proviso.

420. SEC. 2. Any railroad company or other person, who shall violate any of the provisions of section one of this act, shall forfeit the sum of two hundred dollars for each and every offense.—§ 3436.

Penalty.

[On transportation and storage of nitro-glycerine and other explosives, see Secs. 312-317 of this compilation, pages 88-89.]

DANGEROUS TREES NEAR RAILROAD TRACKS MUST BE CUT.

Act No. 27, laws of 1875, entitled, "An act to require railroad companies to cut decayed or dangerous trees standing within a certain distance of either side of their track."

421. SECTION 1. *The People of the State of Michigan enact,* That any railroad company owning, controlling, or operating any line or lines of railroad in this state, be and is hereby authorized and required to cut any tree or trees that are dangerous and liable to fall or blow over and obstruct such track.—§ 3442.

Railroad companies
required
to cut dangerous
trees.

* From the section number and from the subject this section seems to belong in chapter IV. of the amended act.

HEIGHT OF BRIDGES OVER RAILROAD TRACKS.

Act No. 167, laws of 1877, entitled, "An act to regulate the height of bridges over railroad tracks," as amended by act No. 131, laws of 1883.

Height of
bridges over
railroads.

422. SECTION 1. No bridge hereafter constructed over any railroad in this State, except in cities and villages having power under their charters to regulate the height of such bridges, shall be at a height less than eighteen feet above the track of such railroad, except by the written consent of the commissioner of railroads; and any corporation managing, controlling, or operating any railroad in this State, the track of which is crossed by any bridge constructed less than eighteen feet above such track, except such bridge have the written approval of the commissioner of railroads, or be within the corporate limits of any city or village empowered by its charter to regulate the height of bridges, shall, within ninety days after this act shall take effect, raise or reconstruct such bridge in such manner that it shall be at least eighteen feet above such railroad track, and construct suitable approaches to such bridge. A failure on the part of any corporation, to comply with the provisions of this section, shall render such corporation liable to a forfeiture of five hundred dollars, to be recovered as in other cases of forfeiture: *Provided*, That the provisions of this act shall not apply to railroad bridges crossing another railroad track.—§ 3401.—*As amended by Act 131 of 1883.*

Penalty for
failure to
comply.

Proviso.

SAFETY-GUARDS AT BRIDGES, CROSSINGS, VIADUCTS, ETC.

Act No. 190, Laws of 1881, entitled, "An act to provide for the safety of brakemen and other employés on railroads."

Railroads to
provide safety
guards.

423. SECTION 1. *The People of the State of Michigan enact*, That wherever in the State of Michigan there shall be over, above, or across any of the tracks of any railroad a bridge, crossing, viaduct, or other obstruction at a height of less than seven feet above the roof of the freight cars used on or hauled over said road; and whenever [wherever] there shall be upon any railroad in the State of Michigan any bridge or other structure that shall have over or above any track of said road a transverse beam, girder, rod or other obstruction at a height less than that above mentioned, it shall be the duty of the officers of such railroad to erect and keep in repair at or near such bridge, crossing, viaduct, or other obstruction, safety guards, made and placed as provided for in section two of this act.—§ 3437.

What safety
guards to
consist of.

424. SEC. 2. The safety guards mentioned in section one of this act shall consist of a transverse rod, beam, or timber placed across the track or tracks of said railroad at such a height and at such distance from the bridge, viaduct, or other obstruction, as the commissioner of railroads shall direct; and from said rod or beam shall be suspended straps, ropes, or cords of such size and of such length as the said commissioner shall also direct. The said ropes or cords shall be attached to said transverse rod or beam at a distance not greater than nine inches from each other, for the space of eight feet directly over the track. Said guards

shall be placed upon each side of such bridge, viaduct, or other obstruction: *Provided*, That if two such bridges, or other obstructions shall be at a less distance apart than one hundred feet, then no guard shall be required between them.—§ 3438. Proviso.

425. SEC. 3. Any railroad company, lessee, or other person or persons operating any railroad that shall refuse or neglect to erect the guards required by this act, for the space of sixty days after notice from the commissioner of railroads requiring the erection of such guards, shall be subject to a fine of not less than fifty or more than one hundred dollars, to be collected at the suit of the people of this State by the prosecuting attorney of each county wherein such bridge or obstruction may be situated, and for every twenty days' delay thereafter in erecting such guards such company or person shall be liable to the same fine, to be collected as above provided.—§ 3439. Penalty for neglect to provide guards.

DANGER TO LIFE BY DEPREDATIONS ON RAILROADS.

From Act No. 164, Laws of 1869, entitled, "An act to define certain offenses affecting railroads, and to provide punishment for the same."

426. (7619.) SECTION 1. That every person who shall place upon any railroad any timber, stone, iron, or other obstruction, or who shall loosen or displace any rail of the track of such railroad, or shall break down or displace, destroy or injure any bridge, culvert, or embankment of any railroad, or do any other act with intent to endanger the safety of any person traveling or being upon such railroad, or to throw from such railroad any locomotive, tender, or car moving along the track of such railroad, on which shall be any person or property liable to be injured thereby, shall be punished by imprisonment in the State prison for life, or for a term of years.—*As amended by Act 168 of 1871.*—§ 9200. Persons obstructing or damaging any railroad track, etc., liable to imprisonment for life.

427. (7621.) SEC. 3. If any person, not being employed on any railroad, shall willfully and maliciously uncouple or detach the locomotive or tender, or any of the cars, of any railroad train, or shall in any way aid, abet, or procure the doing of the same, such person shall be punished by imprisonment in the State prison not exceeding ten years, or by fine not exceeding two thousand dollars, or both at the discretion of the court.—§ 9202. Uncoupling, etc., locomotive or cars by persons not employed, etc.

428. (7622.) SEC. 4. If any person shall unlawfully seize upon any locomotive, with any express or mail car attached thereto, and run away with the same upon any railroad, or shall aid, abet, or procure the doing of the same, such person shall be punished by imprisonment in the State prison not exceeding ten years, or by fine not exceeding two thousand dollars, or both at the discretion of the court.—§ 9203. Running away with locomotives to which express or mail cars are attached.

From Chapter 154, Revised Statutes of 1849, Chapter 245, Compiled Laws of 1871.

429. (7598.) SEC. 47. Every person who shall willfully and maliciously break down, injure, remove, or destroy any public or toll bridge, or any railroad, or any turnpike gate, or any lock in any dam, or any lock, culvert, or embankment of any canal, or Penalty for injury to railroad gates.

who shall willfully and maliciously make any aperture or breach in any such embankment, with intent to destroy or injure the same, shall be punished by imprisonment in the State prison not more than five years, or by fine not exceeding five hundred dollars and imprisonment in the county jail not more than one year.—§ 9169.

Penalty for removing or injuring railroad guide-boards.

430. (7601.) SEC. 50. Every person who shall willfully or maliciously break down, injure, remove, or destroy any monument erected for the purpose of designating the boundaries of any township, or of any tract or lot of land, or any tree marked for that purpose, or shall so break down, injure, remove, or destroy any mile stone, mile board, guide post, or guide board, erected upon any highway or other public way, turnpike, or railroad, or shall willfully or maliciously deface or alter the inscription on any such stone, post, or board, or shall willfully or maliciously mar or deface any building or any sign board, or extinguish any lamp, or break, destroy, or remove any lamp, or any lamp post, or any railing or posts, erected on any bridge, sidewalk, street, highway, court, or passage, shall be punished by imprisonment in the county jail not more than six months, or by fine not exceeding fifty dollars, or both at the discretion of the court.—§ 9172.

PRECAUTIONS FOR SAVING LIFE AT RAILROAD ACCIDENTS.

Act No. 167, Laws of 1871, entitled, "An act to provide for the better protection of human life on railroad trains," as amended by Act No. 56, Laws of 1881, and Sec. 3 added by Act 18 of 1883.

Company to provide passenger cars with ax and saw.

431. (2397.) SECTION 1. *The People of the State of Michigan enact*, That every railroad company running trains upon any railroad within the limits of this State, or any portion thereof, shall provide and carry at each end of each and every car owned or used by said company for the conveyance and carriage of passengers, baggage, mail, or express, a good and serviceable ax, of not less than three pounds weight, properly sharpened, provided with a proper helve or handle, and at all times in a condition for immediate use; also a good and serviceable carpenter's saw, with not less than twenty-four inch cut, also properly fitted and at all times in a condition for immediate use, each of which implements shall be suspended by brackets or straps upon the inside of each car, near the door thereof, and within easy view, reach, and access of passengers occupying said car; also, in the baggage-car or engine of each train of which any car for the conveyance of passengers forms a part, two or more lifting jacks or screws, of not less than fourteen inch lift and of sufficient power to readily lift one end of any loaded car attached to said train, and each of which shall be so carried and secured as to be within easy view, reach and access.—*As amended by Act 56 of 1881.*—§ 3433.

To carry lifting jacks.

Penalty for non-compliance.

432. (2398.) SEC. 2. In case any railroad corporation shall run any train of cars within the limits of this State for the carriage and transportation of passengers, or upon which passengers are transported, without carrying the implements and tools

prescribed in section one of this act, in the manner therein particularly described, it shall be liable to a penalty of fifty dollars and costs of prosecution for each and every train so run, to be sued for in the name of the people of this State; and such railroad corporation shall also be liable for all damages which shall be sustained by any person by reason of such neglect.—*As amended by Act 56 of 1881.*—§ 3434.

433. SEC. 3. Any person or employé of any railroad company who shall remove or carry away from their proper place, except in case of an accident, the tools required to be kept in the passenger, baggage, mail, or express cars, by the provisions of this act, shall be deemed guilty of an offense, and upon conviction thereof may be punished by a fine not exceeding fifty dollars or imprisonment in the county jail not exceeding thirty days, or both such fine and imprisonment at the discretion of the court.—*Added by Act 18 of 1883.*

Penalty for removing and carrying away tools, etc.

PROVISION AGAINST BURNING OF CARS.

Act No. 118, Laws of 1887, entitled, "An act to provide for the better protection of lives of passengers and employes on railroad trains." As amended by Act 211, Laws of 1889.

434. SECTION 1. *The People of the State of Michigan enact,* That on and after the first day of November, eighteen hundred and eighty-nine, every railroad company owning or operating any railroad wholly or partly within this State, shall make some effective provision against the burning of cars in which passengers are carried, or of cars which form part of passenger trains, in some one or more of the following, or other equally effective methods: By generating the heat for warming the cars outside and independent of said cars, or by the use of heaters in the cars, so constructed that in case of accident, it will be practically impossible for the fire to escape from the stove or heater so as to set fire to the cars, or provided with some automatic or quickly and easily operated provision for extinguishing fire, and when the heat is generated outside of the cars, heaters constructed as provided for in this section may be retained within for use in case of emergencies: *Provided,* That the provisions of this section shall not apply to caboose cars on freight trains.—*As amended by Act 211, Laws of 1889.*

Companies to make provisions against the burning of cars, etc.

Methods of heating.

Proviso.

435. SEC. 2. No device shall be adopted for general use until approved by the commissioner of railroads, and he shall have the power, and it is hereby made his duty to order any stoves or heaters removed, which, in his judgment, are unsafe in case of accident. And he is hereby empowered to use such reasonable means to provide for carrying out the spirit of this law to promote the safety of passengers and employes in railway cars, as the condition of the road and experience in the use of the various methods of heating have demonstrated to be practicable and necessary.—*As amended by Act 211, Laws of 1889.*

Power and duty of commissioner of railroads in relation to.

436. SEC. 3. The provisions of this act may be enforced by any circuit court of this State in any county through which the

How provisions of this act may be enforced.

railroad of any company refusing to comply with such provisions may run, upon the application of the commissioner of railroads, under such penalty as the said court may determine, of not less than one hundred dollars for each violation of the provisions of this act.

INTRODUCTION AND USE OF AUTOMATIC COUPLINGS ON CARS.

Act 147, Laws of 1885, entitled, "An act to provide for the introduction and use on all cars owned and operated by any railroad company or other corporation doing business in this State, of some form of automatic car coupling, by means of which all cars may be coupled and uncoupled without the necessity of the brakeman or any other person passing between the cars," as amended by Act 88, Laws of 1887.

Safety couplers
required to be
used.

437. SECTION 1. *The People of the State of Michigan enact,* That on and after the first day of July, one thousand eight hundred and eighty-six, every railroad company owning or operating any portion of a railroad wholly or partly in this State shall cause to be placed upon each end of every freight car thereafter constructed, purchased or leased, for use in this State, by such corporation, or which may be sent to the shops for general repair or for repair of the coupling fixtures thereof, some form of safety coupler or safety coupling device, by which the cars can be coupled and uncoupled from either side of the train without the necessity of going between the cars, and which will couple with other forms of safety coupler, and with the ordinary link and pin coupler: *Provided,* That no coupler or device for coupling of cars shall be adopted for use by any railroad company owning or operating any railroad wholly or partly within this State until approved by the commissioner of railroads: *Provided further,* That no freight car shall be run upon any of the railroads within this State after the first day of January, eighteen hundred and ninety-one, unless furnished with safety couplers provided by this act.—*As amended by Act 88, Laws of 1887.*

Providso.

Further provisio.

Enforcement of
this act.

Penalty for
violation.

438. SEC. 2. The provisions of this act may be enforced by any circuit court of this State in a county through which the railroad of any company refusing to comply with such provisions may run, upon application of the commissioner of railroads, under such penalty as the said court may determine, of not less than one hundred dollars for each violation of the provisions of this act.

NOTICE AND INVESTIGATION OF ACCIDENTS.

Act No. 64, Laws of 1875, entitled, "An act to require railroad companies to notify the commissioner of railroads and coroners of accidents occurring on their roads, and the investigations of the same."

Companies to
notify Commis-
sioner of
accidents.

439. SECTION 1. *The People of the State of Michigan enact,* That every railroad corporation doing business in this State shall cause immediate notice of any accident which may occur on its road, attended with loss of life to any person, to be given to a coroner of the county residing nearest to the place of accident, and shall also give notice within twenty-four hours to the commissioner of railroads of any such accident, or of any accident falling within a description of accidents of which said commissioner may, by general regulation, require notice to be given.

For each omission to give such notice the corporation shall forfeit a sum not exceeding one hundred dollars.—§ 3440.

Penalty for failures.

440. SEC. 2. The commissioner of railroads shall investigate the causes of any accident on a railroad resulting in loss of life, and of any accident not so resulting, which, in his judgment, shall require investigation.—§ 3441.

Commissioner to investigate causes of accidents.

SERVING OF PROCESS ON RAILWAY COMPANY.

Act 207, Laws of 1885, entitled, "An act to amend section six thousand five hundred fifty-nine of chapter two hundred five of the compiled laws of eighteen hundred seventy-one, being compiler's section of Howell's compilation of laws of Michigan number eight thousand [one hundred] forty-seven, relative to service of process on railroad companies."

441. SECTION 1. *The People of the State of Michigan enact,* That section six thousand five hundred fifty-nine of chapter two hundred five of the compiled laws of eighteen hundred seventy-one, being compiler's section of Howell's compilation of laws of Michigan number eight thousand one hundred forty-seven be amended so as to read as follows:

Section amended.

442. SEC. (6559) 8147. That whenever, in any suit or proceeding either in law or equity, it shall become necessary to serve any process, notice, or writing upon any railroad company in this State, it shall be sufficient to serve the same upon any station agent, or ticket agent at any station or depot along the line, or at the end of the railroad of such company, and such service shall be deemed as good and effectual as if made on the officers, stockholders, or members, or either of them, of such company.

Service of process on railroad company.

IX.—REGULATION OF THE PRACTICE OF MEDICINE, DENTISTRY AND PHARMACY.

REGISTRATION OF PHYSICIANS, STUDENTS OF MEDICINE, AND MIDWIVES.

Act No. 167, Laws of 1883, entitled, "An act to promote public health," as amended by Act 283, Laws of 1887.

443. SECTION 1. *The People of the State of Michigan enact,* That from and after this act shall take effect, it shall not be lawful for any person to practice medicine or surgery, or any branch thereof (except dentistry), in this State without having the qualifications required in the provisions of this act, and without having first registered in the office of the county clerk as provided in this act.

Practice of medicine and surgery regulated, etc.

444. SEC. 2. The necessary qualifications to practice medicine in this State shall be:

Qualification to practice.

First, That every person who shall [have] actually practiced medicine continuously for at least five years in this State, and who is practicing when this act shall take effect, shall be deemed

qualified to practice medicine in this State, after having registered in the office of the county clerk as provided by this act.

Proviso as to
students, etc.

Proviso as to
filing statement.

Second, Every graduate of any legally authorized medical college in this State or any [one] of the United States, or in any other country, shall be deemed qualified to practice medicine and surgery in all its departments after having registered as provided in this act: *Provided*, That the provisions of this act shall not be construed so as to prohibit any student or under-graduate from practicing with and under the immediate supervision of any person legally qualified to practice medicine and surgery under and by the provisions of this act: *Provided*, That every person qualified to practice medicine and surgery under the provisions of this act shall, within three months after this act shall take effect, file with the county clerk of the county wherein he has been engaged in practice, or in which he intends to practice, a statement, sworn to before any officer authorized to administer oaths in said county, setting forth, first, if he is actually engaged in practice in said county, the length of time he has been engaged in such continuous practice, and if a graduate of any medical college, the name of the same and where located, when he graduated, and the length of time he attended the same, also the school of medicine to which he belongs. And if he is a student or under-graduate, the length of time he has been engaged in the study of medicine, and where, and if he has attended a medical college, the name of the same and where located, and the length of time so attended and when, also the name and residence of the physician under whose instruction he is practicing or intends to practice. It shall be the duty of the county clerk of each county in this State to record in a book to be provided by the county, the affidavit (or sworn statement) of every physician practicing in said county. For recording each statement the county clerk shall receive fifty cents, to be paid by the person filing the same.—*As amended by Act 268, Laws of 1887.*

Supervisor to
make out list of
physicians,
students, etc.

445. SEC. 3. It shall be the duty of the supervisor, at the time of making the annual assessment in each year, to make out a list of all the physicians and each student practicing under the instruction of a preceptor residing within his township, village, ward, or city, with the name, age, sex and color of each and the length of time each has been engaged in practice, and if a graduate of a regularly established and reputable college, the name of the college and the date of graduation. Such list shall be returned by the supervisor to the township, village, or city clerk, and by the clerk recorded in the book in which are kept the records of the local board of health, and annually on or before the first day of January such clerks shall furnish certified lists of the same to the secretary of the State board of health.—*As Amended by Act 268, Laws of 1887.*

No person shall
collect by law
for services
rendered unless
duly qualified,
etc.

446. SEC. 4. No person who practices medicine, surgery, or midwifery, in any of their branches (except dentistry), shall be able, in any of the courts of this State, to collect pay for professional services rendered subsequent to the time that this act

shall take effect, unless he was, at the time such professional services were rendered, duly qualified and registered as a medical practitioner according to the several provisions of this act.

447. SEC. 5. The supervisor, township, village, or city clerk is hereby authorized to administer the oaths required by this act. Oaths.

448. SEC. 6. Whoever advertises or holds himself out to the public as authorized to practice medicine or surgery in this State, when in fact he is not so authorized under the provisions of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be liable to a fine of not less than five dollars nor more than fifty dollars for each offense. Penalty for practicing, etc., unless authorized.

449. SEC. 7. It shall be the duty of the supervisor and health officer of the local board of health in each township, village, ward, or city, to enforce this act. Enforcement of act.

REGULATION OF THE PRACTICE OF DENTISTRY.

Act No. 140, Laws of 1883, entitled, "An act to regulate the practice of dentistry in the State of Michigan."

450. SECTION 1. *The People of the State of Michigan enact,* That it shall hereafter be unlawful for any person to practice dentistry, in this State, unless such person has received a diploma from the faculty of a reputable dental college, duly incorporated under the laws of this, or some other State of the United States, or a certificate of qualification from the board of examiners, provided for by this act: *Provided,* That the provisions of this section shall in no way apply to, or affect any person who is now located, and in actual practice in this State. Practice of dentistry forbidden without diploma, etc.

451. SEC. 2. Said board of examiners shall be appointed by the governor of this State, and shall consist of three practical dentists, who shall be regular graduates of a reputable dental college, duly incorporated under the laws of this or some other State of the United States, or otherwise possess the necessary qualifications contemplated by this act. Proviso.

452. SEC. 3. Each member of this board of examiners shall serve for a term of three years, and until his successor is duly appointed and qualified; except in case of the first board, the members thereof shall serve respectively one, two, and three years, as specified in the appointment of the governor. Board of examiners.

453. SEC. 4. The board of examiners shall be organized as follows: The member having but one year to serve shall be president of the board; the one having two years shall be treasurer, and the one having three years shall be secretary. The treasurer shall make and file with the secretary of State, a good and sufficient bond to the people of the State of Michigan, in the penal sum of one thousand dollars, conditioned that he will well and truly pay over all moneys received by him as such treasurer, in compliance with the provisions of this act, and otherwise faithfully discharge the duties of his office. Term of office.

454. SEC. 5. The board of examiners shall meet at least once in each year, for the purpose of examining applicants, after having given personally, or by mail, thirty days' written or printed Organization of board.

Bond of treasurer.

Meetings of board.

notice to each practicing dentist in the State, who has filed his name and postoffice address with the secretary of said board. The said board is authorized to incur all necessary expenses in the prompt and efficient discharge of its duties, and pay the same with any moneys in the hands of its treasurer.

Oath of office. 455. SEC. 6. Each member of said board shall qualify by taking the oath of office prescribed by the constitution of this State, and filing the same with the secretary of State, before entering upon the duties of his office. Should a vacancy occur in said board, the governor of this State shall fill the same by appointment.

Vacancies. Granting of licenses by members of. 456. SEC. 7. Any member of said board of examiners may, when the board is not in session, examine applicants, and in case any applicant is found competent, grant a license to him to practice dentistry in this State, until the next meeting of the said board, and no longer, upon the payment of the sum of three dollars: *Provided*, No member of the said board shall grant a license to one who has been rejected on an examination by the board.

Members may appoint substitute. 457. SEC. 8. Should any member of said board be unable to attend at the meeting of the board for the examination of applicants, he may appoint in writing a substitute, who shall have the same power on the examination that the member appointing him would have, if present: *Provided*, Such substitute be a person eligible to be a member of said board within the provisions of this act: *And provided further*, That the appointment of such substitute be by and with the written consent of the other members of the board.

Proviso. Further proviso. Fee to be paid for licenses. 458. SEC. 9. Each applicant shall, on receipt of a license to practice, pay into the treasury of the board the sum of ten dollars, which shall constitute a fund to defray the expenses of the board; and each member of the board shall receive therefrom the sum of three dollars per day for services rendered as such examiner. The said board shall keep a list of the names of all persons to whom licenses have been granted under the provisions of this act, and also of all persons practicing dentistry in this State, in a book provided for that purpose, with the names arranged in alphabetical order.

Compensation of members of board, etc. List of persons licensed. What moneys to be paid into State treasury. 459. SEC. 10. Any sum in excess of one hundred dollars which, under the provisions of this act, may accumulate in the treasury of said board, shall be paid by treasurer thereof into the treasury of this State.

Persons now practicing dentistry to furnish affidavit, etc. 460. SEC. 11. Each person now engaged in the practice of dentistry in this State shall, within ninety days after this act takes effect, send an affidavit to the secretary of said board setting forth his name, place of business, postoffice address, the length of time he has been engaged in practice in this State, and if a graduate of a dental college state the name of the same, and also pay to the treasurer of said board the sum of twenty-five cents, and on failure to comply with the provisions of this sec-

tion he shall be required to appear and be examined by said board.

461. SEC. 12. Any person who shall practice dentistry in this State, in violation of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five dollars, nor more than one hundred dollars, or sentenced to imprisonment in the county jail for a period not exceeding ninety days, or both such fine and imprisonment, in the discretion of the court: *Provided*, That nothing in this act shall be construed so as to interfere with physicians and surgeons in their practice as such.

Penalty for violation of provisions of this act.

Proviso.

REGULATION OF THE PRACTICE OF PHARMACY.

Act No. 134, Laws of 1885, entitled, "An act to regulate the practice of pharmacy in the State of Michigan," as amended by Act 106, Laws of 1887.

462. SECTION 1. *The People of the State of Michigan enact*, That the governor with the advice and consent of the Senate shall, within thirty days after the passage of this act, appoint five persons and annually thereafter one person from among such competent pharmacists in the State as have had ten years' practical experience in dispensing physicians' prescriptions who shall constitute the Michigan Board of Pharmacy. The terms of office of said five persons shall be so arranged that the term of one shall expire on the thirty-first day of December of each year, and all appointments made thereafter shall be for the term of five years.

Appointment of members of Board of Pharmacy.

463. SEC. 2. The said board shall within thirty days after its appointment, meet, and organize by the election of a president and secretary, from its own members who shall be elected for the term of one year, and shall perform the duties prescribed by the board. It shall be the duty of the board to examine all applications for registration submitted in proper form; to grant certificates of registration to such persons as may be entitled to the same under the provisions of this act; to investigate complaints and to cause the prosecution of all persons violating its provisions; to report annually to the governor, and to the Michigan Pharmaceutical Association upon the condition of pharmacy in the State, which said report shall also furnish a record of the proceedings of the said board for the year, and also the names of all pharmacists duly registered under this act; the board shall hold meetings for the examination of applicants for registration, and the transaction of such other business as shall pertain to its duties, at least once in four months, said meetings to be held on the first Tuesdays of March, July, and November in each year; shall make by-laws for the proper fulfilment of its duties under this act, and shall keep a book of registration in which shall be entered the names and places of business of all persons registered under this act, which book shall also specify such facts as said persons shall claim to justify their registration. The records of said board, or a copy of any part thereof, certified by the secretary to be a true copy, attested by the seal of the board,

Meeting, organization and election of officers of

Duty of.

Report of.

What to contain.

Meetings for examination of applicants, etc.

Records of, evidence in State courts.

	shall be accepted as competent evidence in all courts of the State.
Quorum.	Three members of said board shall constitute a quorum.
Salary, etc., of secretary and treasurer.	464. SEC. 3. The secretary of the board and the treasurer thereof, if such separate office be created, shall receive a salary, which shall be fixed by the board; they shall also receive the amount of their traveling and other expenses incurred in the performance of their official duties. The other members shall receive the sum of three dollars for each day actually engaged in this service, and all legitimate and necessary expenses incurred in the performance of their official duties. Said salaries, per diem and expenses shall be paid from the fees received under the provisions of this act. All moneys received in excess of said per diem allowance, and other expenses above provided for, shall be paid into the State treasury at the end of each year, and so much thereof as shall be necessary to meet the current expenses of said board shall be subject to the order thereof, if, in any year, the receipts of said board shall not be equal to its expenses. The board shall make an annual report and render an account to the board of State auditors and to the Michigan Pharmaceutical Association, of all moneys received and disbursed by it pursuant to this act.
Of other members.	
How paid.	
Disposal of excess of receipts above expenses.	
Annual accounting.	
Certificate as registered pharmacist, to whom granted and how.	465. SEC. 4. Every person who shall, within three months after this act takes effect, forward to the Board of Pharmacy satisfactory proof, supported by his affidavit, that he was engaged in the business of a dispensing pharmacist on his own account in this State at the time this act takes effect, in the preparation of physicians' prescriptions, or that at such time he had been employed or engaged three years or more as a pharmacist in the compounding of physicians' prescriptions, and was at said time so employed in this State, shall, upon the payment to the board of a fee of two dollars, be granted the certificate of a registered pharmacist: <i>Provided</i> , That in case of failure or neglect to register as herein provided, then such person shall, in order to be registered, comply with the requirements provided for registration as a licentiate in pharmacy hereinafter described.
Proviso.	
Licentiate in pharmacy.	466. SEC. 5. No person other than a licentiate in pharmacy shall be entitled to registration as a pharmacist, except as provided in section four. Licentiates in pharmacy shall be such persons, not less than eighteen years of age, who shall have passed a satisfactory examination touching their competency before the Board of Pharmacy. Every such person shall, before an examination is granted, furnish satisfactory evidence that he is of temperate habits, and pay to the board a fee of three dollars: <i>Provided</i> , That in case of the failure of any applicant to pass a satisfactory examination, the money shall be held to his credit for a second examination at any time within one year. The said board may grant certificates of registration without further examination to the licentiates of such other boards of pharmacy as it may deem proper upon a payment of a fee of two dollars.
Requirements prior to examination.	
Proviso.	
Certificates to licentiates of other boards.	
Registered assistant.	467. SEC. 6. The said board may grant, under such rules and regulations as it may deem proper, at a fee not exceeding one

dollar, the certificate of registered assistant, to clerks or assistants in pharmacy, not less than eighteen years of age, who at the time this act takes effect shall be engaged in such service in this State, and have been employed or engaged two years or more in the practice of pharmacy; but such certificate shall not entitle the holder to engage in such business on his own account, or to take charge of or act as manager of a pharmacy or drug store.

468. SEC. 7. Every registered pharmacist, or registered assistant, who desires to continue the practice of his profession, shall annually, after the expiration of the first year of his registration, during the time he shall continue in such practice, on such date as the board of pharmacy may determine, pay to the said board a registration fee to be fixed by the board, but which shall not exceed one dollar for a pharmacist, or fifty cents for an assistant, for which he shall receive a renewal of said registration. Every person receiving a certificate under this act shall keep the same conspicuously exposed in his place of business. Every registered pharmacist, or assistant, shall, within ten days after changing his place of business or employment, as designated by his certificate, notify the secretary of the board of his new place of business. If any pharmacist or registered assistant shall fail or neglect to procure his annual registration, or to comply with the other provisions of this section, his right to act as such pharmacist or assistant shall cease at the expiration of ten days from the time notice of such failure to comply with the provisions of this section shall have been mailed to him by the secretary of said board.

Annual fee to be paid by pharmacists and assistants.

Certificate to be displayed conspicuously.

Notification of change of address.

Penalty for failure to procure annual registration.

469. SEC. 8. All or any registration obtained through false representations shall be void, and the board of pharmacy may hear complaints and evidence, and may revoke such certificates as it may deem improperly held.

Registration obtained by false representations, revokable.

470. SEC. 9. Any proprietor of a pharmacy who, not being a registered pharmacist, shall, ninety days after this act takes effect, fail or neglect to place in charge of such pharmacy a registered pharmacist, or any such proprietor who shall by himself, or any other person, permit the compounding or dispensing of prescriptions, or the vending of drugs, medicines, or poisons, in his store or place of business, except by or in the presence and under the supervision of a registered pharmacist, or except by a registered assistant; or any person, not being a registered pharmacist, who shall take charge of or act as manager of such pharmacy or store, or who, not being a registered pharmacist or registered assistant, shall retail, compound, or dispense drugs, medicines, or poisons, or any person violating any other provision of this act to which no other penalty is herein attached, shall be deemed guilty of a misdemeanor, and for every such offense, upon conviction thereof, shall be punished by a fine of not less than ten nor more than one hundred dollars, and in default of payment thereof, shall be imprisoned not less than ten days, nor more than ninety days, or both such fine and imprisonment, in the discretion of the court.

Penalty for compounding, etc., or allowing compounding, etc., of drugs, etc., by other than registered pharmacist, etc.

Not to apply to business of physicians not keeping open store, etc.

471. SEC. 10. Nothing in this act shall apply to, or in any manner interfere with, the business of any practicing physician who does not keep open shop for retailing, dispensing or compounding of medicine and poison, or prevent him from supplying to his patients such articles as may seem to him proper, nor with the vending of patent or proprietary medicines by any retail dealer, who has been in such business three years or more, nor with the selling by any person of drugs, medicines, chemicals, essential oils and tinctures which are put up in bottles, boxes, packages, bearing labels securely affixed, which labels shall bear the name of the pharmacist or druggist putting up the same, the dose that may be administered to persons, three months, six months, one year, three years, five years, ten years, fifteen years and twenty-one years of age, and if a poison, the name or names of the most common antidotes; of copperas, borax, blue vitriol, salt-peter, pepper, sulphur, brimstone, paris green, liquorice, sage, senna leaves, castor oil, sweet oil, spirits of turpentine, glycerine, glauber salts, epsom salts, cream tartar, bi-carbonate of soda, sugar of lead and such acids as are used in coloring and tanning, nor with the selling of paregoric, essence of peppermint, essence of ginger, essence of cinnamon, hive syrup, syrup of ipecac, tincture of arnica, syrup of tolu, syrup of squills, spirits of camphor, number six, sweet spirits of nitre, laudanum, quinine, and all other preparations of cinchona bark, tincture of aconite, and tincture of iron, compound cathartic pills, or quinine pills, nor with the exclusively wholesale business of any dealer: *Provided*, That every person who shall within three months after this act takes effect forward to the board of pharmacy, satisfactory proof, supported by his affidavit, that he was engaged in the business of a dispensing pharmacist on his own account in this State, in the preparation of physicians' prescriptions, three years next previous to the second day of June, eighteen hundred and eighty-five, or that at such time he had been employed or engaged three years or more as a pharmacist in the compounding of physicians' prescriptions, and was at said time so employed in this State, shall, upon the payment to the board of a fee of two dollars, be granted the certificate of a registered pharmacist: *And provided further*, That the said board may grant, at a fee not exceeding one dollar, to such persons not less than sixteen years of age, who shall pass a satisfactory examination touching their competency, before the board of pharmacy, the certificate of registered "assistant," but such certificate shall not entitle the holder to engage in business on his own account, or to take charge of or act as manager of a pharmacy or drug store.—*As amended by Act 196, Laws of 1887.*

Proviso as to registry of druggist.

Further proviso as to "assistant."

Adulteration forbidden.

472. SEC. 11. No person shall add to or remove from any drug, medicine, chemical, pharmaceutical preparation, any ingredient or material for the purpose of adulteration or substitution, which shall deteriorate the quality, commercial value or medicinal effect, or which shall alter the nature or composition of such

drug, medicine, chemical, or pharmaceutical preparation, so that it will not correspond to the recognized tests of identity or purity. Any person who shall thus willfully adulterate or alter, or cause to be adulterated or altered, or shall sell or offer for sale, any such drug, medicine, chemical, or pharmaceutical preparation, or any person who shall substitute, or cause to be substituted, one material for another, with the intention to defraud or deceive the purchaser, shall be guilty of a misdemeanor, and be liable to prosecution under this act. If convicted he shall be liable to all the costs of the action, and for the first offense be liable to a fine of not less than ten dollars nor more than one hundred dollars, and for each subsequent offense, a fine of not less than twenty-five dollars nor more than one hundred and fifty dollars. On complaint being entered the board of pharmacy is hereby empowered to employ an analyst or chemist, whose duty it shall be to examine into the so-called adulteration, substitution, or alteration and report upon the result of his investigation; and if said report shall be deemed to justify such action the board shall duly cause the prosecution of the offender, as provided in this act.

A misdemeanor.

Penalty for.

Action of board upon complaint being made.

473. SEC. 12. The senior pharmacist of every house dispensing and compounding medicines, registered under this act, shall be exempt and free from all jury duty in the courts of this State.

Exemption from jury service.

474. SEC. 13. All acts and parts of acts in conflict with provisions of this act are hereby repealed.

Repealing clause.

ORGANIZATION OF PHARMACISTS AND DRUGGISTS.

Act No. 75, Laws of 1887, entitled, "An act granting that corporations may be organized, the object of which shall be to unite the reputable pharmacists and druggists of the State of Michigan, for the purpose of improving the science and art of pharmacy, the elevation of its standard and the promotion, by legitimate means, of the practice of pharmacy among properly qualified persons of that profession."

475. SECTION 1. *The People of the State of Michigan enact,* That any hundred or more persons who shall be qualified pharmacists within the meaning of act number one hundred and thirty-four of the session laws of eighteen hundred and eighty-five, or who shall have received the diploma or degree of any school of pharmacy legally empowered to confer such diploma or degree, who may desire to become incorporated for the purposes set forth in the title of this bill, may execute under their hands and acknowledge before some person within this State authorized to take acknowledgments of deeds, articles of agreement, which articles, as hereinafter specified, shall be filed and recorded in the office of the Secretary of State, and upon the execution and acknowledgment of such articles the signers thereof, and those who may thereafter become associated with them, shall become a body politic and corporate for the purposes set forth in said articles.

One hundred or more pharmacists may become incorporated.

476. SEC. 5. It shall be the duty of the secretary of any association organized under the provisions of this act to compile a printed report of the transactions of said association, including copies of papers read at its meetings, reports of facts collected,

Secretary to compile a printed report, etc.

discoveries made and experience gained, one copy of which said printed report shall be deposited in the office of the Secretary of State, one in the State library, one in the office of the State board of health, and at least one retained in the office of the association.

X.—CERTAIN SOCIAL RELATIONS, MORALS, Etc.

RESTRICTIONS AS TO MARRIAGE; PROTECTION TO HEALTH, LIFE, AND MORALS OF CHILDREN.

RESTRICTIONS AS TO MARRIAGE.*

From Chap. 83, Revised Statutes of 1846, Chap. 169, Comp. Laws of 1871.

Who shall be capable of contracting marriage.

477.† (4719.) SECTION 1. Every male who shall have attained the full age of eighteen years, and every female who shall have attained the full age of sixteen years, shall be capable in law of contracting marriage, if otherwise competent.—§ 6209.

Marriage is a civil contract.
1 Ind. Rep., 390.
4 Comstock, 230.
8 Paige, 573.

478.‡ (4720.) SEC. 2. Marriage, so far as its validity in law is concerned, is a civil contract, to which the consent of parties capable in law of contracting, is essential.—§ 6210.

Who shall not intermarry.
5 Mich., 305.

479.¶ (4721.) SEC. 3. No man shall marry his mother, grandmother, daughter, granddaughter, stepmother, grandfather's wife, son's wife, grandson's wife, wife's mother, wife's grandmother, wife's daughter, wife's granddaughter, nor his sister, brother's daughter, sister's daughter, father's sister, or mother's sister.—§ 6211.

Idem.
5 Mich., 316.

480. (4722.) SEC. 4. No woman shall marry her father, grandfather, son, grandson, stepfather, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband's grandfather, husband's son, husband's grandson, nor her brother, brother's son, sister's son, father's brother, or mother's brother.—§ 6212.

Who not to marry.

481.¶ (4723.) SEC. 5. No marriage shall be contracted whilst either of the parties has a former wife or husband living, unless the marriage with such former wife or husband shall have been dissolved.—§ 6213.

Insane person, etc.

Marriages declared valid.

482.** (4724.) SEC. 6. No insane person or idiot shall be capable of contracting marriage. All marriages heretofore contracted between white persons and those wholly or in part of African descent are hereby declared valid and effectual in law

* For provisions as to registration of marriages, see Act 191 of 1867 (amended), Secs. 561-569 of this compilation.

† 477. See *People v. Slack*, 15 Mich., 193; *Baoker v. People*, 37 Mich., 7; *Lewis v. People*, 37 Mich., 518; *Frost v. Vought*, 37 Mich., 65.

‡ 478. See *Leavitt v. Leavitt*, 13 Mich., 456. Also 15 Mich., 203.

¶ 479. Marriages are prohibited within the degrees of consanguinity named, whether the parties are legitimate or illegitimate, or of the whole or the half blood.—*People v. Jenness*, 5 Mich., 318.

¶ 481. See 1 Pick., 196; 8 Pick., 433; *People v. Dawell*, 25 Mich., 273.

** 482. See *People v. Brown*, 34 Mich., 340; also 12 Mass., 363.

for all purposes, and the issue of such marriages shall be deemed and taken legitimate as to such issue and as to both of the parents.—§ 6214.—*As amended by Act 23 of 1883.*

483.* (4726.) SEC. 8. All justices of the peace and ministers of the gospel are hereby authorized and required before solemnizing any marriage, to examine at least one of the parties on oath, which oath they are hereby authorized to administer, as to the legality of such intended marriage.—§ 6216.

One of the parties to be examined on oath.

484. (4728.) SEC. 14. If any justice of the peace or minister of the gospel shall join any persons in marriage contrary to the provisions of this chapter, he shall forfeit for every such offense a sum not exceeding five hundred dollars.—§ 6218.

Forfeiture for joining persons in marriage contrary to law.

485.† (4729.) SEC. 15. If any person shall undertake to join others in marriage knowing that he is not lawfully authorized so to do, or knowing of any legal impediment to the proposed marriage, he shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment in the county jail not more than one year, or by a fine not less than fifty, nor more than five hundred dollars, or by both such fine and imprisonment, in the discretion of the court.—§ 6219.

Punishment of persons unauthorized, etc.

PENALTIES ON PARTIES CONTRACTING AN UNLAWFUL MARRIAGE.

From Chap. 158, Revised Statutes of 1846, Chap. 249, Comp. Laws of 1871.

486.‡ (7694.) SEC. 4. If any person who has a former husband or wife living, shall marry another person, or shall continue to cohabit with such second husband or wife, in this State, he or she shall, except in the cases mentioned in the following section, be deemed guilty of the crime of polygamy, and shall be punished by imprisonment in the State prison not more than five years, or in the county jail not more than one year, or by fine not exceeding five hundred dollars.—§ 9280.

Polygamy.

487. (7695.) SEC. 5. The provisions of the preceding section shall not extend to any person whose husband or wife shall have been continually remaining beyond sea, or shall have voluntarily withdrawn from the other and remained absent for the space of five years together, the party marrying again not knowing the other to be living within that time, nor to any person who shall have good reason to believe such husband or wife to be dead, nor to any person who has been legally divorced from the bonds of matrimony.—*As amended by Act 9 of 1869.*—§ 9281.

Excepted cases.

488.¶ (7705.) SEC. 15. All persons being within the degree of consanguinity within which marriages are prohibited, or declared by law to be incestuous and void, who shall intermarry with each other, or who shall commit adultery or fornication

Incest.

* 483. A case under this section is, *Bonker v. People*, 37 Mich., 4, 10.

† 485. A misdemeanor, etc., *Bonker v. People*, 37 Mich., 4. Whatever is in the way of a valid marriage is such an impediment as the law has in view. The statute applies to a marriage where the girl is under the age of consent.—*Bonker v. People*, 37 Mich., 4. See also 13 Pick., 111.

‡ 486. For cases under this section, see also 1 Pick., 136; 8 Pick., 433; 2 Cushing, 553; *People v. Brown*, 34 Mich., 339; *People v. Darvell*, 25 Mich., 247 54; *People v. Lambert*, 5 Mich., 349; *People v. Stack*, 15 Mich., 193; *People v. Calder*, 30 Mich., 85; *Kopke v. People*, 43 Mich., 41.

¶ 488. For cases under this section, see also *Hicks v. People*, 10 Mich., 395; *People v. Jenness*, 5 Mich., 305; *DeGroat v. People*, 39 Mich., 124.

with each other, shall be punished by imprisonment in the State prison not more than fifteen years, or in the county jail not more than one year.—§ 9291.

CIVIL LICENSE REQUIRED TO MARRY.

Act 128, Laws of 1887, entitled, "An act for the requiring of a civil license in order to marry, and the due registration of the same, and to provide a penalty for the violation of the provisions of the same," as amended by Act 250, Laws of 1889.

Persons intending marriage must obtain license.

489. SECTION 1. *The People of the State of Michigan enact,* It shall be necessary for all parties intending to be married to obtain a marriage license from the county clerk of the county in which either the man or woman resides, and to deliver the said license to the clergyman or magistrate who is to officiate, before the marriage can be performed. If both parties to be married are non-residents of the State it shall be necessary to obtain such license from the county clerk of the county in which the marriage is to be performed.—*As amended by Act 256, Laws of 1889.*

Where non-residents must obtain license.

Secretary of State to furnish forms, blanks, etc.

490. SEC. 2. Blank forms for marriage license and certificate, as also proper books of registration, ruled for the items contained in said forms, shall be prepared by the Secretary of State, and shall be furnished by him to the county clerk [clerks] of the various counties of the State in quantities needed. The blank forms for license and certificate shall be made in duplicate and shall provide spaces for the entry of the following items, to wit: The full name, age, color, place of residence, place of birth, occupation, and if known, the father's name, and mother's maiden name, of each of the parties to be married; the number of times either of the parties may have been previously married; the bride's maiden name, in case she is a widow; the date of the giving of the license; the signature of the county clerk; the date and place of the marriage; the names and residences of two witnesses to the marriage; and the certification of the officiating clergyman or magistrate, that the marriage contemplated by the license has been performed by him. And the Secretary of State shall furnish to the county clerks of the various counties of the State, blank forms of affidavit, containing the requisite allegations, under the laws of this State, of the competency of the parties to unite in the bonds of matrimony, and any party applying for license to marry, shall cause such an affidavit to be made and filed with the county clerk, as a basis for the issuing of the license; and such affidavit, together with the license, shall be made a matter of record of said clerk's office.

Secretary of State to furnish to county clerks blank forms of affidavit, etc.

Duty of county clerk.

491. SEC. 3. It shall be the duty of the county clerk, on application being made to him, to fill out the blank spaces of the license according to the sworn answer [answers] of the applicant, taken before him or some persons duly authorized by law to administer oaths. If it shall appear that the parties are legally entitled to be married, the county clerk shall sign the license in certification of the fact that it is properly issued, and he shall make a correct copy thereof in the books of registration. For his services connected therewith he shall be entitled to a fee of fifty cents, to be paid by the party applying and at the time of

Fees.

the issuing of the license. He shall give the license, thus filled out and signed by him, together with the blank form of certificate to the party applying, for delivery to the clergyman or magistrate who is to officiate at the marriage. On the return of the license to the county clerk (as specified in section four, below) with the certificate of the clergyman, or magistrate, that the marriage has been performed, he shall record in the book of registration, in their proper places of entry, the date and place of the marriage, the names and residences of two witnesses to the marriage, and the name of the officiating clergyman or magistrate. All licenses and certificates so issued and returned shall be preserved on file in the office of the county clerk, and he shall, as often as once in three months, make a faithful report to the Secretary of State of all licenses and certificates issued and received by him.

Licenses and certificates where filed, etc.

492. SEC. 4. It shall be the duty of the clergyman or magistrate, officiating at a marriage, to fill out the spaces of the certificate left blank for the entry of the time and place of the marriage, the names and residence [residences] of two witnesses, and his own signature in certification that the marriage has been performed by him. He shall separate the duplicate license and certificate, and retain one-half for his own record, and he shall return the other half within ten days to the county clerk issuing the same.

Duty of officiating clergyman or magistrate.

493. SEC. 5. Any county clerk who shall refuse to give a license to persons properly applying and legally entitled to be married, or who shall violate any of the provisions of this act, shall be adjudged guilty of a misdemeanor, and shall be punished by a fine of not less than twenty-five dollars or more than one hundred dollars, or in default of payment thereof, by imprisonment in the county jail for a term of thirty days.

Penalty for violating act by county clerk.

494. SEC. 6. Any clergyman or magistrate who shall join together in marriage parties who have not delivered to him a properly issued license, as provided for in this act, or who shall violate any of the provisions of this act, shall be adjudged guilty of a misdemeanor, and shall be punished by a fine of one hundred dollars, or in default of payment thereof, by imprisonment in the county jail for a term of ninety days.

Penalty for violation, by clergyman, etc.

495. SEC. 7. Any person whose duty it shall be to return a marriage certificate to the county clerk, who shall neglect to return said certificate, shall be adjudged guilty of a misdemeanor, and shall be punished by a fine of not exceeding one hundred dollars or ninety days' imprisonment, or both, in the discretion of the court.

Penalty for neglect to return certificate.

496. SEC. 8. Any person applying for a marriage license who shall swear to a false statement therein, shall be guilty of perjury, and shall be prosecuted therefor under the general laws of the State.

False swearing in application, perjury.

497. SEC. 9. All reports of marriage sent by the county clerks of the various counties of the State to the office of the

Filing and recording of reports.

secretary of state shall be preserved on file in that office, and a proper record thereof shall be made and kept.

Records of
license, etc.,
prima facie
evidence.

498. SEC. 10. The record of any license to marry, or of any marriage certificate, in any county clerk's office, or a certified copy thereof, shall be *prima facie* evidence in any court or proceedings in this State, with the same force and effect as if the original were produced, both as to the facts therein contained and as to the genuineness of the signatures thereto.

Acts repealed.

499. SEC. 11. All other acts and parts of acts which are inconsistent herewith are hereby repealed.

PROTECTION TO HEALTH, LIFE, AND MORALS OF CHILDREN.*

Laws relative to employment of children are published in this pamphlet, preceding this, under the general head of "VII.—Safety of Persons in Manufacturing Establishments, Mines, etc."

Act No. 260, Laws of 1881, entitled, "An act to provide for the protection of children."

Exhibition of
children pro-
hibited in
certain cases.

500. SECTION 1. *The People of the State of Michigan enact,* That any person having the care, custody, or control of any child under sixteen years of age, who shall exhibit, use, or employ, or who shall apprentice, give away, let out, or otherwise dispose of any such child to any person in or for the vocation, service or occupation of rope or wire walking, gymnast, contortionist, rider, or acrobat, dancing or begging, in any place whatsoever, or for any obscene, indecent, or immoral purpose, exhibition, or practice whatsoever, or for any exhibition injurious to the health or dangerous to the life or limb of such child, or who shall cause, procure, or encourage such child to engage therein, and any person who shall take, receive, hire, employ, use, exhibit, or have in custody any such child for any of the purposes mentioned in this section, shall be deemed guilty of a misdemeanor.—§ 1998.

Children not to
be permitted in
saloons, etc.

501.* SEC. 2. No minor child under sixteen years of age shall be permitted to remain in any saloon, bar room, or other place where any spirituous or intoxicating liquor, or any wine or beer, or any beverage, liquor or liquors containing any spirituous

* 501. The law relative to selling or giving spirituous or intoxicating liquors to students or minors, or allowing them to play games in a building where liquors are sold, is stated in Act 92 of 1887, § 2287 of Howell's Statutes; that on sale of such liquors to minors, intoxicated persons or habitual drunkards, in Act 359 of 1881, § 2270-83 Howell's Statutes, as amended by Acts 178, 187, and 191 of 1883. Act 178 of 1883 prohibits selling liquors within two miles of Orchard Lake Military Academy. The sale of liquors is prohibited within one mile of the Soldiers' Home, or to inmates thereof, Acts 31 and 189, Laws of 1887. Provision for instruction of children in effects of alcoholic drinks, stimulants, and narcotics is made in section 15 of chapter III., of Act 164 of 1881, as amended by Act 93 of 1883, and Act 165 of 1887, § 5067 Howell's Statutes, also in the following section from Chap. XII. of Act No. 164 of 1881, as amended by Act 93 of 1883:—

Granting
certificates to
teachers.

501a. SEC. 4. The board of school examiners shall grant certificates to teachers, in such form as the superintendent of public instruction shall prescribe, licensing as teachers all persons who, on thorough and full examination, shall be found qualified in respect to good moral character, learning, and ability to instruct and govern a school; but no certificate shall be granted to any person who shall not pass a satisfactory examination in orthography, reading, writing, grammar, geography, arithmetic, theory and art of teaching, United States history, and civil government, and after September first, eighteen hundred and eighty-four, in physiology and hygiene, with particular reference to the effects of alcoholic drinks, stimulants, and narcotics upon the human system. * * * —§ 5153. —As amended by Act 93 of 1883.

or intoxicating liquor, beer, or malt liquor, is sold, given away, or furnished for a beverage; or in any place of amusement known as dance houses, concert saloons, variety theatres; or in any house of prostitution; or in any room or hall occupied or used for hire, gain, or reward, for the purpose of playing billiards, nine-pins, cards, dice, or any other unlawful game, or in any room or hall used or occupied for gaming, pool-selling, or betting in any manner whatever. Any proprietor, keeper, or manager of any such place who shall permit such child to remain in any such place, and any person who shall encourage or induce in any way such child to enter such place or to remain therein, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine of not less than twenty-five dollars nor more than fifty dollars, or by imprisonment in the county jail not less than ten days nor more than thirty days (or both such fine and imprisonment in the discretion of the court).—§ 1999. Penalty.

502. SEC. 3. No child under sixteen years of age, held for trial or on conviction in any jail or other place of confinement, shall be placed or allowed to remain in the same cell or room in company with adult prisoners. It shall be the duty of the officer in charge of such place of confinement, to secure as far as the construction of such place will admit, the exclusion of such children from the society of such adult prisoners during their confinement.—§ 2000. Children in jails not to be kept with adults.

503. SEC. 4. That on and after January first, eighteen hundred and eighty-two, it shall not be lawful to place or maintain in any county poor-house any child who by law is admissible to the State public school. That whenever, after that date, there shall be in any county poor-house, any such children who cannot be received in said school for the reason there shall be then no room for them, it shall be the duty of the superintendents of the poor of such county to place and maintain such children, at the expense of such county, in some suitable family or charitable institution until they can be received in said school: *Provided*, Children not to be kept in poor-house, etc. That nothing in this act shall prevent any county from maintaining and educating such children in a building separate from the county poor-house, devoted to the sole use of children of sound mind and body, and cared for by other than pauper labor: *And provided further*, That no child under the age of two years shall be separated from its mother, if such mother shall be an inmate of such county house. *And provided further*, That no child under the age of four years shall be separated from the mother, if such mother shall be an inmate of such county house, without the consent of the mother.—§ 2001. Provido. Provido.

504. SEC. 5. Any person who shall sell, give away, or in any way furnish to any minor child any book, pamphlet, or other printed paper or other thing, containing obscene language, or obscene prints, pictures, figures, or descriptions tending to the corruption of the morals of youth, or any newspapers, pamphlets, or other printed paper devoted to the publication of criminal news, police reports, or criminal deeds, and any person who shall Obscene books, etc., not to be furnished to children.

Penalty.

in any manner hire, use, or employ such child to sell, give away, or in any manner distribute such books, pamphlets, or printed papers, and any person having the care, custody, or control of any such child, who shall permit him or her to engage in any such employment, shall on conviction thereof be deemed guilty of a misdemeanor.—§ 2002.

Exhibition of
certain books,
etc., prohibited.

505. SEC. 6. Every person who shall exhibit upon any public street or highway, or in any other place within the view of children passing on any public street or highway, any book, pamphlet, or other printed paper or thing containing obscene language or obscene prints, figures, or descriptions, tending to the corruption of the morals of youth, or any newspapers, pamphlets, or other printed paper or thing devoted to the publication of criminal news, police reports, or criminal deeds, shall on conviction thereof be deemed guilty of a misdemeanor.—§ 2003.

FURNISHING OF TOBACCO TO MINORS.

Act 77, Laws of 1889, entitled, "An act to prohibit the selling, giving or furnishing tobacco, in any of its forms, to minors, and providing a penalty therefor."

What unlawful.

506. SECTION 1. *The People of the State of Michigan enact,* That it shall not be lawful for any person by himself, his clerk or agent, to sell, give or furnish any cigar, cigarette, cheroot, chewing or smoking tobacco, or tobacco in any form whatsoever, to any minor under seventeen years of age, unless upon the written order of the parent or guardian of said minor.

Misdemeanor;
penalty.

507. SEC. 2. Any person who shall willfully violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than five dollars nor more than fifty dollars, or by imprisonment in the county jail for a term of not less than ten days nor more than thirty days, or by both such fine and imprisonment in the discretion of the court.

EMPLOYMENT OF CHILDREN PROHIBITED IN CERTAIN CASES.

Act 152, Laws of 1887, entitled, "An act to prohibit the employment of male children under fourteen years of age and female children under sixteen years of age for more than nine hours a day."

Employment of
certain persons
for more than
nine hours per
day unlawful.

508. SECTION 1. *The People of the State of Michigan enact,* That no person, company, or corporation shall employ any male child under fourteen years of age nor any female under sixteen years of age for more than nine hours in any one day.

Penalty of
person for
violation of
provisions of
act.

509. SEC. 2. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined a sum not exceeding fifty and not less than ten dollars, or by imprisonment in the county jail not more than thirty nor less than ten days, or by both fine and imprisonment, at the discretion of the court. If any company or corporation shall violate any of the provisions of this act such company or corporation shall for each violation forfeit the sum of fifty dollars, to be recovered in an action of debt in any court of competent jurisdiction.

Of corporation
or company.

Duty of prose-
cuting attorney.

510. SEC. 3. It is hereby made the duty of the prosecuting attorney of the county where complaint shall be made to investi-

gate all complaints made in violation of this act that may be brought before him, and, if there is probable cause, to prosecute in the name of the people of the State of Michigan in courts having competent jurisdiction thereof, all offenses contemplated by this act.

511. SEC. 4. This act shall not apply to persons engaged in agriculture, or in the performance of domestic duties, or clerks in stores. Exceptions.

SALE OF OBSCENE, IMMORAL, AND INDECENT BOOKS, ETC., PROHIBITED.

Act 138, Laws of 1885, entitled, "An act to prevent the sale or otherwise disposing of obscene, immoral, and indecent books, pamphlets, papers, prints, pictures, writings, and other objectionable news.

512. SECTION 1. *The People of the State of Michigan enact,* What to constitute a misdemeanor under this act.
That any person who sells, lends, gives away, or offers to sell, lend, or give away, or shows, or has in [his] has possession with intent to sell, lend, or give away, or to show or advertise, or who offers to loan, give, sell, or distribute any obscene, immoral, lewd, lascivious, or indecent book, magazine, pamphlet, newspaper, writing, paper, print picture, drawing, publication, or photograph, or any article or instrument of indecent or immoral use, or who designs, copies, draws, photographs, prints, utters, publishes, or otherwise prepares such a book, picture, drawing, paper, or other article or thing, or writes or prints, or causes to be written or printed, a circular, advertisement, or notice of any kind, or gives information orally, stating when, where, how, or of whom, or by what process such obscene article or thing can be purchased or obtained; or second, any person who sells, lends, gives away, or shows, or has in his possession with intent to sell, or give away, or to show, advertise, or otherwise offers for loan, gift, or distribution, any book, pamphlet, magazine, newspaper, or other printed paper, devoted to the publication or principally made up of criminal news, police reports, or accounts of criminal deeds, or pictures and stories of deeds of bloodshed, lust, or crime; or third, any person who in any manner hires, uses, or employs any minor child to sell, or give away, or in any manner to distribute, or who having the care, custody, or control of any minor child, permits such child to sell, give away, or in any other manner to distribute any book, magazine, pamphlet, newspaper, story paper, writing, paper, picture, drawing, photograph, or other article or matter coming within the descriptions of articles and matter mentioned in the first and second subdivisions of this section or any of them, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by Penalty for. imprisonment in the county jail not more than three months, or by fine not exceeding one hundred dollars, or by both such fine and imprisonment in the discretion of the court.

513. SEC. 2. All municipal courts and justices of the peace, Duty of municipal courts and justices as to warrants for seizure.
on complaint supported by oath or affirmation, that any person has in his possession or control any indecent books, papers, articles, and things described in this act, shall issue a warrant directed to the sheriff of the county, within which such complaint

Confiscation of
property seized.

shall be made, or to any constable, marshal, or police officer within said county directing him, them, or any of them to search for, seize, and take possession of, such obscene and indecent books, papers, articles, and things, and said court or justice of the peace shall, upon conviction of the person or persons offending, under the law, any of the provisions of this act, forthwith in the presence of the person or persons upon whose complaint the said seizure or arrest is made, if he or they shall, after notice thereof, elect to be present, destroy, or cause to be destroyed, the aforesaid books, papers, articles or things, and shall cause to be entered upon the records of his court the fact of such destruction.

XI.—WILLFUL KILLING, OR INJURY TO PERSON:—

MURDER, DUELLING, MANSLAUGHTER, MAIMING, ATTEMPT TO MURDER, ASSAULTS, ROBBERY, THREATS TO EXTORT MONEY, RAPE, COMPULSION TO MARRY, ENTICING FEMALES AND CHILDREN, UNLAWFUL CONFINING PERSONS, POISONING FOOD, DRINK, MEDICINES, WELLS, ETC., EXPOSURE OF CHILDREN, KILLING UNBORN CHILDREN, PROCURING MISCARRIAGE, CARELESS USE OF FIRE-ARMS, ETC.

OFFENSES AGAINST THE LIVES AND PERSONS OF INDIVIDUALS.*

From Chap. 153 of Revised Statutes of 1846, Chap. 244 of Comp. Laws of 1871, where not otherwise stated.

Murder of the
first deg. es.
15 Ill. Rep., 517.
4 Mich. Rep., 67.
5 Mich. Rep., 1.
8 Mich. Rep., 337.
4 Curtis, 314.
Sec. 8119.

514. (7510.) SECTION 1. All murder which shall be perpetrated by means of poison, or lying in wait, or any other kind of willful, deliberate, and premeditated killing, or which shall be committed in the perpetration, or attempt to perpetrate, any arson, rape, robbery, or burglary, shall be deemed murder of the first degree, and shall be punished by solitary confinement at hard labor in the State prison for life.—§ 9075.

Murder of the
second degree.
1 Mich. Rep., 451.
5 Mich. Rep., 1.
17 Mich. Rep.,
429.
18 Mich. Rep.,
314.

515. (7511.) SEC. 2. All other kinds of murder shall be deemed murder of the second degree, and shall be punished by imprisonment in the State prison for life, or any term of years, in the discretion of the court trying the same.—§ 9076.

Degree, how to
be determined.

516. (7512.) SEC. 3. The jury before whom any person indicted for murder shall be tried shall, if they find such person guilty thereof, ascertain in their verdict, whether it be murder of the first or second degree; but if such person shall be convicted by confession, the court shall proceed by examination of witnesses to determine the degree of the crime, and shall render judgment accordingly.—§ 9077.

* Inasmuch as the laws which protect individual life from willful assault are an important defense to public safety, it is deemed proper to insert this chapter. Howell's references to cases adjudicated, and some of the sections of the chapter are here omitted.

517. (7513.) SEC. 4. Every person, being an inhabitant or resident of this State, who shall, by previous appointment or engagement made within the same, fight a duel without the jurisdiction of this State, or who shall fight a duel within this State, and in so doing shall inflict a mortal wound upon any person, whereof the person so injured shall afterwards die within this State, shall be deemed guilty of murder in the first degree, within this State, and may be indicted, tried, and convicted in the county where such death shall happen.—§ 9078.

Fighting duel out of state, when deemed murder within this State.
Mass. R. S. Ch. 125, Sec. 3.

518. (7514.) SEC. 5. Every person, being an inhabitant or resident of this State, who shall be the second of either party in such duel as is mentioned in the preceding section, and shall be present as a second when such mortal wound is inflicted, whereof death shall ensue within this State, shall be deemed to be an accessory before the fact to the crime of murder in this State, and may be indicted, tried, and convicted in the county where the death shall happen, or in which such wound shall have been inflicted.—§ 9079.

Seconds in such case.

519. (7516.) SEC. 7. Every person who shall engage in a duel with any deadly weapon, although no homicide ensue, or who shall challenge another to fight such duel, or shall send or deliver any written or verbal message, purporting or intended to be such challenge, although no duel ensue, shall be punished by imprisonment in the State prison not more than ten years, or by a fine not exceeding one thousand dollars, and imprisonment in the county jail not more than three years, and shall also be incapable of holding or of being elected or appointed to any place of honor, profit, or trust, under the constitution or laws of this State.—§ 9081.

Fighting duel, challenging, etc.
Cass Code, 24.
Code of 1820, 307.
Rev. of 1847, 163.
Thatcher's C. C. 330.
Ibid 400.

520. (7517.) SEC. 8. Every person who shall accept any such challenge, or who shall knowingly carry or deliver any such challenge or message, whether a duel ensue or not, and every person who shall be present at the fighting of a duel with deadly weapons, as an aid or second, or surgeon, or who shall advise, encourage, or promote such duel, shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding five hundred dollars, and shall also be incapacitated, as mentioned in the preceding section.—§ 9082.

Accepting challenge, aiding, etc.

521. (7518.) SEC. 9. If any person shall post another, or, in writing or print, shall use any reproachful or contemptuous language, to or concerning another, for not fighting a duel, or for not sending or accepting a challenge, he shall be punished by imprisonment in the county jail not more than six months, or by fine not exceeding one hundred dollars.—§ 9083.

Posting, etc., for not accepting challenge, etc.

522. (7519.) SEC. 10. Every person who shall commit the crime of manslaughter shall be punished by imprisonment in the State prison not more than fifteen years, or by fine not exceeding one thousand dollars, or both, at the discretion of the court.—§ 9084.

Punishment for manslaughter.
3 Mich., 337.

523. (7520.) SEC. 11. If any person, with malicious intent to maim or disfigure, shall cut out or maim the tongue, put out

Maiming or disfiguring, or aiding therein.
7 Mass., 245.

or destroy an eye, cut or tear off an ear, cut or slit or mutilate the nose or lip, or cut off or disable a limb or member of any other person, every such person, and every person privy to such intent, who shall be present, aiding in the commission of such offense, shall be punished by imprisonment in the State prison not more than ten years, or by fine not exceeding one thousand dollars, or both, at the discretion of the court.—§ 9085.

Assault with
intent to maim,
etc.

524. (7521.) SEC. 12. If any person shall assault another with intent to maim or disfigure his person in any of the ways mentioned in the preceding section, he shall be deemed a felonious assaulter, and shall be punished by imprisonment in the State prison not more than ten years, or by fine not exceeding one thousand dollars, or both, at the discretion of the court.—§ 9086.

Act No. 202, Laws of 1879, entitled, "An act to prevent and punish the sending of any explosive substance to a person with intent to do bodily harm."

Penalty for
sending explo-
sives, etc., for
purpose of doing
injury to
persons.

525. SECTION 1. *The People of the State of Michigan enact,* That if any person shall unlawfully and maliciously send or deliver to, or cause to be taken or received by any person, any kind of explosive substance, or any other noxious or dangerous thing, with intent in so doing to burn, maim, disfigure, or disable any person, or do bodily harm to any person, and every person privy to such intent, who shall aid in the commission of such offense, when death shall not result, shall be punished by imprisonment in the State prison not exceeding five years.—§ 9118.

Act No. 111, Laws of 1877, entitled, "An act relating to the punishment of bank, safe, and vault robbery."

Punishment for
injuring or
putting in fear
any person for
the purpose of
committing
bank robbery,
etc.

526. SECTION 1. *The People of the State of Michigan enact,* That whoever, with the intent to commit the crime of larceny or any felony, shall confine, maim, injure, or wound, or attempt, or threaten to confine, kill, maim, injure, or wound, or shall put in fear any person for the purpose of stealing from any building, bank, safe, or other depository of money, bonds or other valuables, or shall by intimidation, fear, or threats compel or attempt to compel any person to disclose or surrender the means of opening any building, bank, safe, vault, or other depository of money, bonds, or other valuables, or shall attempt to break, burn, blow up, or otherwise injure or destroy any safe, vault, or other depository of money, bonds, or other valuables in any building or place, shall, whether he succeeds or fails in the perpetration of such larceny or felony, be punished by imprisonment in the State prison for life or any term of years.—§ 9121.

Act No. 71, Laws of 1883, entitled, "An act to punish persons guilty of assault with intent to do great bodily harm."

Punishment for
assault with
intent to do
great bodily
harm.

527. SECTION 1. *The People of the State of Michigan enact,* That any person who shall assault another with intent to do great bodily harm, less than the crime of murder, shall be punished by imprisonment in the State prison, not more than ten

years, or by fine not exceeding eight hundred dollars, or by both, in the discretion of the court.—§ 9122a.

528. (7522.) SEC. 13. If any person shall attempt to commit the crime of murder by poisoning, drowning, or strangling another person, or by any means not constituting the crime of assault with intent to murder, every such offender shall be punished by imprisonment in the State prison for life, or any number of years.—*As amended by Act 147 of 1875.*—§ 9087.

Penalty for attempting to murder by poisoning, etc.

529. (7523.) SEC. 14. If any person shall assault another with intent to commit the crime of murder, every such offender shall be punished by imprisonment in the State prison for life, or any number of years.—§ 9088.

Assault with intent to murder.
4 Blackford, 528.
6 Mich., 287.
10 Mich., 212.
19 Mich., 322.

530. (7524.) SEC. 15. If any person shall assault another, and shall feloniously rob, steal, and take from his person any money, or other property which may be the subject of larceny, such robber being armed with a dangerous weapon, with intent, if resisted, to kill or maim the person robbed, or if, being so armed, he shall wound or strike the person robbed, he shall be punished by imprisonment in the State prison for life, or any number of years.—§ 9089.

Assault and robbing, etc., from person, being armed.

531. (7525.) SEC. 16. If any person, being armed with a dangerous weapon, shall assault another, with intent to rob, he shall be deemed a felonious assaulter, and shall be punished by imprisonment in the State prison not more than fifteen years.—*As amended by Act 143 of 1869.*—§ 9090.

Penalty for assault, being armed, etc.

532. (7526.) SEC. 17. If any person shall, by force and violence, or by assault or putting in fear, feloniously rob, steal, and take from the person of another, any money, or other property which may be the subject of larceny, such robber not being armed with a dangerous weapon, he shall be punished by imprisonment in the State prison not more than fifteen years.—§ 9091.

Assault and stealing, etc., from person of another, not being armed.
7 Mass., 242.

533. (7527.) SEC. 18. If any person, not being armed with a dangerous weapon, shall assault another with force and violence, and with intent to rob and steal, he shall be deemed a felonious assaulter, and shall be punished by imprisonment in the State prison not more than ten years.—§ 9092.

Assault with intent to rob and steal, not being armed.

534. (7528.) SEC. 19. If any person shall, either verbally or by any written or printed communication, maliciously threaten to accuse another of any crime or offense, or shall by any written or printed communication maliciously threaten any injury to the person or property of another, with intent thereby to extort money, or any pecuniary advantage whatever, or with intent to compel the person so threatened to do any act against his will, he shall be punished by imprisonment in the State prison or in the county jail, not more than two years, or by fine not exceeding one thousand dollars.—§ 9093.

Malicious threats to extort money, etc.

535. (7529.) SEC. 20. If any person shall ravish and carnally know any female of the age of fourteen years, or more, by force and against her will, or shall unlawfully and carnally know and abuse any female child under the age of fourteen years, he shall be punished by imprisonment in the State prison for life,

Rape, evidence of, and age of consent.
1843, p. 211.
1841, p. 177, Sec. 2.
9 Mich., 150
13 Mich., 427.

4 Gray, 7.
6 Gray, 477.
32 Maine, 585.
39 Maine, 322.

Assault with in-
tent to commit
rape.
2 Pick., 380.
9 Mich., 152.
[19 Mich., 322.]

Unlawfully
taking a woman
and compelling
her to marry,
etc.

Taking a
woman with
intent to compel
her to marry,
etc.

Enticing any
female under
sixteen years of
age for purpose
of marriage, etc.

Penalty for
assault in cer-
tain cases.

Unlawfully
confining any
person, etc.,
how punished.

or for any term of years; and such carnal knowledge shall be deemed complete upon proof of penetration only.—§ 9094.—*As amended by Act 112, Laws of 1887.*

536. (7530.) SEC. 21. If any person shall assault any female with intent to commit the crime of rape, he shall be deemed a felonious assaulter, and shall be punished by imprisonment in the State prison not more than ten years, or by fine not exceeding one thousand dollars.—§ 9095.

537. (7531.) SEC. 22. If any person shall take any woman unlawfully and against her will, and by force, menace, or duress, compel her to marry him or any other person, or to be defiled, he shall be punished by imprisonment in the State prison for life, or any term of years.—§ 9096.

538. (7532.) SEC. 23. If any person shall take any woman unlawfully and against her will, with intent to compel her by force, menace, or duress, to marry him or any other person, or to be defiled, he shall be punished by imprisonment in the State prison not more than ten years.—§ 9097.

539. (7533.) SEC. 24. Every person who shall take or entice away any female under the age of sixteen years, from her father, mother, guardian, or other person having the legal charge of her person, without their consent, either for the purpose of prostitution, concubinage, or marriage, shall be punished by imprisonment in the State prison not exceeding three years, or by imprisonment in the county jail not exceeding one year, or by a fine not exceeding one thousand dollars.—§ 9098.

Act 172, Laws of 1883, entitled, "An act to provide for the punishment of assaults upon females in certain cases."

540. SECTION 1. *The People of the State of Michigan enact,* That if any person shall undertake to medically treat any female person, and while so treating her, shall represent to such female that it is, or will be necessary or beneficial to her health that she have sexual intercourse with a man, and shall thereby induce her to have carnal sexual intercourse with any man, or if any man, not being the husband of such female, shall have sexual intercourse with her by reason of such representation, the person or persons so offending shall, on conviction thereof, be punished by imprisonment in the State prison for any term of years not exceeding ten years.

541. (7534.) SEC. 25. Every person who willfully, maliciously and without lawful authority shall forcibly or secretly confine or imprison any other person within this State against his will, or shall forcibly carry or send such person out of this State, or shall forcibly seize or confine, or shall inveigle or kidnap any other person with intent either to cause such person to be secretly confined or imprisoned in this State against his will, or in any way held to service against his will, shall be punished by imprisonment in the State prison for any term of years, or by a fine of five thousand dollars, or by both such fine and imprisonment, in the discretion of the court.—*As amended by Act 135, Laws of 1889.*—§ 9099.

542. (7535.) SEC. 26. Every offense mentioned in the preceding section may be tried either in the county in which the same may have been committed or in any county in or through which the person so seized, taken, inveigled, kidnapped, or whose services shall be so sold or transferred, shall have been taken, confined, held, carried, or brought; and upon the trial of any such offense, the consent thereto of the person so taken, inveigled, kidnapped, or confined, shall not be a defense, unless it shall be made satisfactorily to appear to the jury that such consent was not obtained by fraud nor extorted by duress or by threats.—*As amended by Act 191, of 1875.*—§ 9100.

Where offense may be tried.

543. (7536.) SEC. 27. If any person shall mingle any poison with any food, drink, or medicines, with intent to kill or injure any other person, or shall willfully poison any spring, well, or reservoir of water, with such intent, he shall be punished by imprisonment in the State prison for life, or any term of years.—§ 9101.

Poisoning food, wells, etc.
5 Mich., 10, 22.

544. (7537.) SEC. 28. If any person shall assault another, with intent to commit any burglary, or any other felony, the punishment of which assault is not hereinbefore prescribed, he shall be punished by imprisonment in the State prison not more than five years, or by fine not exceeding five hundred dollars and imprisonment in the county jail not exceeding two years.—§ 9102.

Assaults not before mentioned, with intent to commit felony.

545. (7538.) SEC. 29. Whoever shall be convicted upon a complaint or an indictment of an assault, or an assault and battery, where no other punishment is prescribed, shall be punished by imprisonment in the county jail not more than one year, or by a fine not exceeding two hundred dollars, and on failure to pay such fine, shall be imprisoned in the county jail not more than one year, or both such fine and imprisonment in the discretion of the court.—*As amended by Act 167 of 1879.*—§ 9103.

Punishment for assault and battery, etc., in certain cases.

546. (7539.) SEC. 30. Every person who shall maliciously, forcibly, or fraudulently lead, take, or carry away, or decoy or entice away any child under the age of twelve years, with intent to detain or conceal such child from its parent, or guardian, or from the person or persons who have lawfully adopted said child, or from any other person having the lawful charge of said child, shall be punished by imprisonment in the State prison not more than ten years, or by imprisonment in the county jail not more than one year, or by fine not exceeding one thousand dollars. In case such child shall have been adopted by a person or persons other than its parents, in accordance with the statute providing for such adoption, then this section shall apply as well to such taking, carrying, decoying or enticing away of such child, by its father or mother, as by any other person: *Provided*, That the provisions of this section shall not apply to a parent who has not given written consent that the custody of such child should be committed to another.—*As amended by Act 195, Laws of 1885.*—§ 9104.

Enticing away any child under twelve years, with intent to detain, etc.

Pro-iso.

547. (7540.) SEC. 31. If the father or mother of any child

Punishment for exposing child with intent to injure or abandon. under the age of six years, or any other person, shall expose such child in any street, field, house, or other place, with intent to injure or wholly to abandon it, he or she shall be punished by imprisonment in the State prison not more than ten years.—*As amended by Act 200 of 1875.*—§ 9105.

Willful killing unborn child. 548. (7541.) SEC. 32. The willful killing of an unborn quick child by any injury to the mother of such child, which would be murder if it resulted in the death of such mother, shall be deemed manslaughter.—§ 9106.

Attempt to destroy unborn child. 549. (7542.) SEC. 33. Every person who shall administer to any woman pregnant with a quick child any medicine, drug, or substance whatever, or shall use or employ any instrument or other means, with intent thereby to destroy such child, unless the same shall have been necessary to preserve the life of such mother, or shall have been advised by two physicians to be necessary for such purpose, shall, in case the death of such child or of such mother be thereby produced, be deemed guilty of manslaughter.—§ 9107.

Attempt to procure miscarriage of pregnant woman. 550. (7543.) SEC. 34. Every person who shall willfully administer to any pregnant woman any medicine, drug, substance, or thing whatever, or shall employ any instrument or other means whatever, with intent thereby to procure the miscarriage of any such woman, unless the same shall have been necessary to preserve the life of such woman, or shall have been advised by two physicians to be necessary for that purpose, shall, upon conviction, be punished by imprisonment in a county jail not more than one year, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment.—§ 9108.

Section added. 551. (7544.) SEC. 35. In case of prosecution under sections thirty-three and thirty-four of this chapter, it shall not be necessary for the prosecution to prove that no such necessity existed, or that the advice of two physicians was not given.—*As amended by Act 61 of 1867.*—§ 9109.

Act 90, Laws of 1889, entitled, "An act to provide for the punishment of crimes in certain cases."

Enticing certain males into secret places for immoral practices, a felony. 552. SECTION 1. *The People of the State of Michigan enact.* That every person above the age of sixteen years who shall entice, allure, or persuade any male person under the age of fourteen years into any room, office or to any other secret place, to take, or for the purpose of taking, any immoral, immodest or indecent liberties, or who shall take or attempt to take such liberties with such

Punishment for. person at any place, shall be deemed guilty of a felony, and, upon conviction thereof, shall be punished by imprisonment in the State prison for a period of not more than fifteen years, or by a fine not exceeding one thousand dollars, in the discretion of the court.

CARELESS USE OF FIRE-ARMS.*

Act No. 68, Laws of 1869, entitled, "An act to prevent the careless use of fire arms."

553. (7548.) SECTION 1. *The People of the State of Michigan enact*, That any person who shall intentionally, without malice, point or aim any fire-arm at or toward any other person, shall be guilty of a misdemeanor, and shall be subject to a fine of not more than fifty dollars and not less than five dollars.—§ 9110. Fire-arms, penalty for careless use of.

554. (7549.) SEC. 2. That any person who shall discharge, without injury to any other person, any fire-arm, while intentionally, without malice, aimed at or toward any person, shall be guilty of a misdemeanor, and shall be liable to a fine of not less than one hundred dollars, or imprisonment in the county jail not to exceed one year, or both, at the discretion of the court.—§ 9111. Penalty for discharge without injury.

555. † (7550.) SEC. 3. Any person who shall maim or injure any other person by the discharge of any fire-arm pointed or aimed, intentionally but without malice, at any such person, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than fifty dollars, or imprisonment in the county jail for a period of not more than one year; and if death ensue from such wounding or maiming, such person so offending shall be deemed guilty of the crime of manslaughter.—§ 9112. Penalty for maiming or injuring. In case of death.

556. (7551.) SEC. 4. Any party maimed or wounded by the discharge of any fire-arm as aforesaid, or the heirs or representatives of any person who may be killed by such discharge, may have an action on the case against the party offending, for damages which shall be found by a jury; and such damages, when found, may, in the discretion of the court before which such action is brought, be doubled.—§ 9113. Action for damages.

CARRYING CONCEALED WEAPONS.

Act 129, Laws of 1887, entitled, "An act to prevent the carrying of concealed weapons, and to provide punishment therefor."

557. SECTION 1. *The People of the State of Michigan enact*, That it shall be unlawful for any person, except officers of the peace and night-watches legitimately employed as such, to go armed with a dirk, dagger, sword, pistol, air-gun, stiletto, metallic knuckles, pocket-billie, sand-bag, skull-cracker, slung-shot, razor, or other offensive and dangerous weapon or instrument concealed upon his person. Unlawful to carry concealed weapons.

558. SEC. 2. Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail or the house of correction at Detroit not exceeding three months, or by both such fine and imprisonment, in the discretion of the court, and in addition thereto may be required to Punishment for violation.

* On "Use of fire-arms in cemeteries," see section 102 of this compilation; also, "To prevent sale and use of toy-pistols," Act 138 of 1883; also, "To prevent setting of guns and other dangerous devices," Act 97 of 1875, Secs. 320-323 of this compilation.

† 555. "Proof of malice is not merely proof of something beyond the statute. It is inconsistent with the statute in its chief design."—*People v. Chappell*, 27 Mich. 486.

Proviso.

enter into recognizance with sufficient sureties in such sum as the court may order, not exceeding one thousand dollars, to keep the peace, and be of good behavior for a period not exceeding one year: *Provided*, The provision relative to the sentencing of prisoners to the Detroit House of Correction shall apply only to Wayne county.

XII.—VITAL AND SOCIAL STATISTICS:—

CENSUS; REGISTRATION OF BIRTHS, MARRIAGES, AND DEATHS;
STATISTICS OF THE INSANE, DEAF, DUMB AND BLIND;
TREATMENT AND CARE OF INEBRIATES.

CENSUS.

From Act No. 146, Laws of 1883, entitled, "An act to provide for taking the census and statistics of this State."

[This act requires the census to be taken during the month of June, 1884, as of date June 1, 1884, and every tenth year thereafter, by enumerators appointed by township boards and common councils, on blanks prepared and supplied by the secretary of State. Sec. 4 of Art. IV. of the constitution required the census to be taken in the year 1854 and every tenth year thereafter.]

Schedules to be numbered.

What schedule number one to contain.

559. SEC. 9. That the census schedules shall be numbered one, two, three, and four. *Schedule number one* shall contain inquiries as to the name, age at last birthday, sex, and color; as to the profession, occupation, or trade; as to the occupation of fathers of children under fifteen years of age; as to the place of birth, as to the [and] place of birth of parents, as to the month of birth, if born within the preceding year, and the number of children previously born of the same mother; as to the civil condition whether single, married, widowed, or divorced; as to the month and place of marriage, if married within the preceding year; as to the ability to read and write; as to the physical condition, whether insane, epileptic, idiotic, deaf and dumb, or blind; and as to the time of residence within this State of each and every inhabitant of each township and census district, on the first day of June of the year eighteen hundred and eighty-four. *Schedule number one* shall also designate the heads (husband and wife) of each family, and shall contain inquiries as to the relation of each person enumerated to the heads (husband and wife) of the family,—whether son, daughter, servant, boarder, or other; also inquiries as to the whole number of marriages; and, by sex, the whole number of births and the whole number of deaths occurring during the preceding year. *Schedule number two* shall contain inquiries as to the name, age at last birthday, sex, and color; as to the profession, occupation, or trade; as to the occupation of fathers of persons under fifteen years of age, deceased; as to the place of birth, and place of birth of parents; as to the month of birth, if born within the preceding year; as to the civil conditions at time of death, whether single, married,

What schedule number two to contain.

widowed, or divorced; as to the month and place of marriage, if married within the preceding year; as to the physical condition, whether insane, epileptic, idiotic, deaf and dumb, or blind; as to the month of death, disease or other cause of death, the place where such death occurred, and time of residence within this State of each and every inhabitant whose death occurred during the preceding year. *Schedule number three* shall contain inquiries as to the number, size, improvements, and value of farms; as to the wages paid farm help; as to the acreage and yield of the various farm products, and as to the number of pounds of butter and cheese made by farmers during the preceding year; as to the number of pounds of maple sugar made the present year; as to the number of each kind of live stock on hand, the value of live stock, and as to the acreage of growing crops. *Schedule number four* shall contain inquiries as to the name of each corporation, company, or individual owning or operating each establishment of productive industry, including mines and fisheries, in which the value of the products amounts to two hundred dollars or over; as to the name of the business, manufacture, or product, and the capital, both real and personal, invested in the business; as to the kind of power used, and the kind and number of machines used; as to the average number of hands and the [number of] children or youth employed; as to the sex of the hands employed; as to the total amount paid in wages and the number of months in active operation the preceding year; as to the kind, quantity, and value of materials, and as to the kind, quantity, and value of productions the preceding year. The secretary of State may, in his discretion, add to the census schedules inquiries of special importance, not named in this section.

What schedule
number three
to contain.

What schedule
number four
to contain.

560. SEC. 10. That the term "preceding year," wherever used in this act, shall be construed to mean the year ending June first, eighteen hundred and eighty-four.

Term preceding
year.

[Act No. 227, Laws of 1879, entitled "An act to provide for the collection of the social statistics of Michigan, and to provide for the publication of said statistics together with the statistics to be taken by the authority of the United States in the year 1880," made it the duty of county clerks to collect and compile, on blanks to be furnished by the superintendent of the U. S. census, the statistics embraced in schedule 5 of "An act providing for the taking of the seventh and subsequent censuses of the U. S.," etc., and made it the duty of the Secretary of State to condense, compile, and arrange for publication the foregoing statistics, together with the statistics of this State that will be taken by authority of the United States in the year one thousand eight hundred and eighty, and to publish and distribute six thousand copies of the same. As the superintendent of the U. S. census of 1880 did not supply to the county clerks the blanks referred to in this act, but collected the statistics in another way, and as the State of Michigan was not supplied with schedules of the U. S. Census of 1880, as it had been supplied with those of 1870, the compilation was not made by the Secretary of State.]

REGISTRATION OF BIRTHS, MARRIAGES, AND DEATHS.*

Act No. 194, Laws of 1887, as amended by Act No. 125 of 1889.

561. (810.) SECTION 1. *The People of the State of Michigan enact,* That it shall be the duty of the supervisor of each township, and the supervisor or assessor of any city or ward therein,

Duties of super-
visors and
assessors.

* Restrictions as to marriage are stated on pp. 130-134., Sections 477-99 of this compilation.

In 1869 returns to be made from April 5 to December 31, 1868.

Return to county clerk.

In 1870 and thereafter, returns to include from January to December last preceding.

Statistics, how obtained.

Compensation.

Proviso relating to the city of Detroit.

Duty of common council.

Persons to be appointed by.

Compensation of persons so appointed.

How paid.

Penalties.

in this State, between the tenth day of April and the first day of June, in the year eighteen hundred and sixty-nine, to ascertain, by actual inquiry or otherwise, of the inhabitants thereof, the births and deaths which have occurred in their respective townships, cities, or wards, from and including April fifth, eighteen hundred and sixty-eight, to and including December thirty-first, eighteen hundred and sixty-eight, together with the facts relative thereto as are hereinafter provided for, and shall make an accurate return thereof to the clerk of the county in which such township or city is situated, on or before the first said day of June; and for such service shall receive ten cents for each birth and death so returned by them, to be paid by the county in which such returns are made. In the year eighteen hundred and seventy, and in each and every year thereafter, it shall be the duty of the officers above mentioned, between the tenth day of April and the first day of June, to ascertain, by actual inquiry or otherwise, of the inhabitants thereof, the births and deaths which have occurred in their respective townships, cities, or wards, during the year ending on the last day of the preceding December, and shall make the return, and receive therefor the compensation above provided for: *Provided, That in the city of Detroit, the duties required by this act to be performed by supervisors and assessors shall be performed by persons appointed by the common council for that purpose; and it shall be the duty of the common council, on or before the tenth day of April, in each year, to appoint such number of persons in each ward of said city, as shall be necessary to perform said duties within the time limited by this act; and such persons shall possess all the authority conferred upon, and perform all the duties required of supervisors and assessors by this act, within the territory assigned them, respectively, by the common council, and shall receive such compensation for their services, not exceeding the sum allowed by this act to supervisors and assessors, as shall be fixed by the common council, to be paid by the county of Wayne, and shall be liable to the same penalties for refusal or neglect to perform any of said duties.—As amended by Act 125 of 1869.—§ 858.*

Sec. 2, of this act is superseded by Sec. 4 of Act No. 128, Laws of 1887 (section 492 of this compilation.)

County clerks,
duties of.

562. (812.) SEC. 3. It shall be the duty of the county clerks of the several counties in this State, on receiving the returns of such births, marriages, and deaths, to record the same at length in separate books, to be provided at the expense of the State by the secretary of State, for that purpose, with proper indexes thereto. The births, marriages, and deaths shall be numbered and recorded in the order in which they are received by the clerk, and the record of marriages shall be indexed, using both the name of the bridegroom and bride. The record of births shall state, in separate columns, the date of the birth, the name of the child (if it have any), the sex and color of the child, the place of birth, the Chris-

Births, marriages, and deaths to be numbered and indexed.

What records of births shall state.

tian and surname of both parents, the residence and nativity of the parents, the occupation of the father, and the date when the record was made : *Provided*, That in case the child has no Christian name, such name shall be obtained and reported to the county clerk in the next annual report of the supervisor or assessor, and such Christian name shall be distinctly designated in such report as the Christian name belonging to a child previously reported, and shall be properly entered by said county clerk, in the blank left for such Christian name in his book of record ; and it shall be the duty of the several county clerks, on or before the tenth day of April in each year, to give to the officers required to make the said returns, lists of such children whose Christian names have not been previously reported in their respective towns, cities, or wards. The record of marriages shall state, in separate columns, the date and place of marriage, the Christian and surname of the bridegroom and bride, and the maiden name of the bride, if a widow, the color, age, and place of birth of each, the residence of each at the time of marriage, the occupation of the bridegroom, and the name and official station of the person by or before whom they were married, the names and residences of at least two witnesses present at such marriage, and the date when such record was made. The record of deaths shall state, in separate columns, the date of the death, the Christian and surname of the deceased, the sex and color, whether married or single, the age in years, months, and days, the place of death, the disease or apparent cause of death, the nativity of the deceased, and the occupation, if any, and the names, residence of the parents, if known, and the date when such record was made. The clerks of the several counties shall annually, on or before the first day of September, make and transmit to the secretary of State a certified copy of the records in his office of all the births, marriages, and deaths reported in their respective counties for the year ending December thirty-first, last preceding. And each county clerk shall receive for the record of each birth and death in his office three cents, and three cents for each birth, marriage, and death returned by him to the secretary of State, to be paid by the county, and shall be compensation in full for all services required by this act to be performed by him.—*As amended by Act 125 of 1869.*—§ 860.

Proviso.

What record of marriages shall state.

What record of deaths shall state.

Return of county clerk.

Compensation.

563. (813.) SEC. 4. The secretary of State shall prepare and furnish to the county clerks of the several counties in this State, blank books of suitable quality and size, with proper rulings and headings, to be used as books of record in carrying into effect the provisions of this act. He shall also prepare and furnish blank “forms of returns,” as hereinbefore specified, accompanied with such instructions and explanations as may be necessary to insure uniformity in such returns, which blanks shall be forwarded to the several county clerks on or before the first day of March in each year ; and the said county clerks shall deliver the same to the supervisors or assessors of the several townships, cities, or wards therein, in their respective counties,

Secretary of State, duties of.

on or before the tenth day of April.—*As amended by Act 125 of 1869.*—§ 861.

Bound volumes
of reports.

Secretary of
State's report to
Governor.

564. (814.) SEC. 5. It shall be the duty of the secretary of State to receive the returns made in pursuance of the third section of this act, and he shall cause the same for each year to be bound together, in one or more volumes, at the expense of the State, and make indexes thereto; and with such assistance as may be voluntarily rendered by any authorized committee appointed by the medical faculty of the university of Michigan, or by any regularly authorized medical society in this State for that purpose, he shall prepare such tabular statements, results, and deductions therefrom as will render them of practical utility, and make report thereof, annually, to the governor of the State, which report may be ordered published and distributed in such manner as the legislature may from time to time direct.*—§ 862.

Sec. 6 of this act is superseded by secs. 6 and 7 of Act No. 128, Laws of 1887 (secs. 494 and 495 of this compilation).

Certificate of
death.

Contents.

Refusal to make
certificate.

Penalty.

Facts to be
obtained by
supervisor.

Refusal to
furnish.

Obtained under
oath.

565. (816.) SEC. 7. Every physician, surgeon, or midwife, who shall have been in attendance upon any deceased person, shall, upon application of any supervisor or assessor of the township, city, or any ward thereof, in which such death occurred, make out and deliver to such supervisor or assessor a certified statement, without fee, containing the name of the disease or cause (if known), producing the death of such person; and any medical attendant who shall neglect or refuse to give such statement, or who shall willfully make a false statement in relation to such death, shall, for such offense, be liable to a fine of not less than ten nor more than fifty dollars, and the costs of prosecution, which fine the said supervisor or assessor is hereby required to sue for and collect in his official character.—§ 864.

566. (817.) SEC. 8. It shall be the duty of each supervisor or assessor to obtain the facts in relation to births and deaths within his township, city, or any ward therein (not otherwise obtained), from the heads of families, the keepers, overseers, or superintendents of asylums, hospitals, jails, prisons, workhouses, almshouses, houses of correction, and similar institutions, the keepers of hotels, public and private boarding-houses, and the masters or chief officers of steamboats and sail vessels navigating any of the waters of this State and touching at any port of entry therein, in which such births or deaths occurred; and if either of the above-named persons shall refuse to give such information, then the same shall be obtained by such supervisor or assessor from any person having a knowledge of the facts in relation to such birth or death; and if the supervisor or assessor shall have reason to believe that any person or persons willfully misrepresented or concealed any facts relative to such birth or death in his township, city, or any ward therein, which he cannot otherwise obtain, he may examine such person or persons on oath

*Section 10 of Act No. 170, Laws of 1877, provides for printing and distribution of the reports.

(which oath such supervisor or assessor is hereby empowered and authorized to administer), in relation to any birth or death within his township, city, or any ward therein, of which such person or persons may have any knowledge or information; and if any person, after being duly subpoenaed (as provided for compelling the attendance of witnesses in justices' courts) by such supervisor or assessor, for the purposes aforesaid, shall neglect or refuse to appear before such officer, or appearing shall refuse to be sworn and testify in relation to such matter, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished therefor by fine not exceeding fifty dollars, and in default of paying the same, shall be imprisoned in the county jail of the county in which such conviction shall be had until said fine be paid, but not exceeding ninety days; and any person who, after being duly sworn as aforesaid, shall willfully make any false statement in relation to any birth or death, about which he is required to testify, shall be deemed guilty of willful and corrupt perjury: *Provided*, That no person shall be required to answer any question which will tend to criminate himself or herself upon any such examination.—§ 865.

Neglecting to answer a subpoena.

Penalty.

Perjury.

Provided.

567. (818.) SEC. 9. In case of the refusal or neglect by any of the officers mentioned in this act, to perform any of the duties hereinbefore required of them or either of them, to be done and performed by any of the provisions herein contained, such officer shall be liable to a fine not to exceed one hundred dollars, and the costs of prosecution; and the prosecuting attorney in each county is hereby required to prosecute, in the name of the people of the State of Michigan, all persons in his county who shall willfully violate any of the provisions of this act; and the said supervisor or assessors of any township, city, or any ward therein, may be prosecuted for a misdemeanor under this section, and upon conviction punished as therein provided for.—§ 866.

Neglect to perform duties.

Penalty.

Misdemeanor.

568. (819.) SEC. 10. Sections 3,213, 3,214, 3,215, and 3,216 of the compiled laws of 1857 be and the same are hereby repealed.

Sections repealed.

569. (820.) SEC. 10 [11]. The several supervisors and assessors of the townships, villages, and cities in this State, who have made any returns of births and deaths to the county clerk of their respective counties for the year eighteen hundred and sixty-eight, and have not received the amount of compensation as provided for in this act, shall be paid therefor at rates set forth in the preceding sections. And such county clerks as have made returns of the births, marriages, and deaths to the secretary of State for the year eighteen hundred and sixty-eight, and who have not received compensation therefor, shall be paid for the same at the rates set forth in the preceding sections.—*Added by Act 125 of 1869.*—§ 867.

Compensation of supervisors and assessors for 1868.

County clerks.

STATISTICS OF THE INSANE, DEAF, DUMB, AND BLIND.

From Act No. 100, Laws of 1873, entitled, "An act to provide for the collection of statistical information of the insane, deaf, dumb, and blind, in this State,
* * *," as amended by Acts 52 of 1875 and 81 of 1881.

Supervisors to collect statistics of deaf, dumb, blind, insane, etc.

570. SECTION 1. It shall be the duty of the supervisor or assessor of each township and ward in this State, at the time of making his general assessment and assessment roll for his township or ward in each year, to ascertain and set down, in a blank prepared for that purpose, the names of all insane, deaf and dumb, dumb, blind, epileptic, and idiotic persons in his township or ward, showing the person's age, general health, habits, and occupation; the kind, degree, and duration of such affliction; the sex; whether married or single, or widowed; the time under medical treatment; the pecuniary ability of the person thus afflicted, and of the relatives of such person liable for his or her support; whether supported wholly or in part by the public, and such further information relative to these classes of persons as may be thought useful. Such supervisor or assessor shall deliver said blank to the county clerk of his county on or before the first day of June, and the county clerk shall forthwith transmit said blank to the secretary of State, who shall present an abstract of the information thus obtained to the governor, on the thirtieth day of September, or as soon as practicable thereafter.—*As amended by Acts 52 of 1875 and 81 of 1881.*—§ 848.

When blanks to be delivered to county clerk.

County clerk to transmit to secretary of state.

Secretary of state and county clerks to distribute this act and blank returns.

571. SEC. 2. The secretary of State shall as soon as practicable after the passage of this act, transmit to each county clerk of this State, a sufficient number of copies of this act to furnish each supervisor or assessor of his county with one; also a sufficient number of blanks to be prepared by him, to be used in carrying out the provisions of this act. The county clerk of each county shall, on receiving the same, immediately distribute said copies and blanks to the supervisors or assessors of his county. The secretary shall each year thereafter, before the first day of April, transmit to each county clerk a sufficient number of blanks, to be distributed by such clerk to the supervisors or assessors of his county, to be used in carrying out the provisions of this act.—§ 849.

Act No. 70, Laws of 1875.

County clerk to furnish certain information to trustees of Deaf, Dumb, and Blind Institute.

572. SECTION 1. *The People of the State of Michigan enact,* That it shall be the duty of the county clerk of each county, to make and forward to the trustees of the institution for the deaf and dumb, and the blind, on or before the first day of December of each year, on blanks to be furnished by the secretary of State for that purpose, a copy, in detail, of so much of the statistical report of each supervisor or assessor, as is required by an act to provide for the collection of statistical information of the insane, deaf, dumb, and blind in this State, etc., being act one hundred and nine of the laws of eighteen hundred and seventy-three, approved April seventeen, eighteen hundred and seventy-three, as relates to the deaf, dumb, and blind, in each county respectively.—§ 850.

STATISTICS OF TREATMENT AND CURE OF INEBRIATES.

Act No. 100, Laws of 1873.

573. SECTION 1. *The People of the State of Michigan enact,*

That the governor of the State of Michigan may commission a suitable and competent person, whose duty it shall be, without expense to the State, to procure information and statistics relative to the scientific treatment and cure of the victims of intemperance.—§ 851.

Governor may commission suitable person, etc.

XIII.—PENALTIES AND FORFEITURES.—DUTIES OF PROSECUTING ATTORNEYS, SUPERVISORS AND OTHER TOWNSHIP OFFICERS IN CASE OF VIOLATION OF THE LAW.

OF THE COLLECTION OF PENALTIES AND FORFEITURES.

From chapter 128 of Revised Statutes of 1846, or chapter 216 of Compiled Laws of 1871.

574. *(6852.) SEC. 12. It shall be the duty of every supervisor, whenever he shall know or have good reason to believe that any penalty or forfeiture has been incurred within his township, which shall be recoverable by action before a justice of the peace, according to the foregoing provisions of this chapter, forthwith to commence and prosecute a suit, in the name of the people of this State, for the recovery thereof.—§ 8439.

Duty of supervisors to prosecute.

575. (6853.) SEC. 13. It shall be the duty of every other township officer, who shall know or have good reason to believe that any penalty or forfeiture has been incurred within his township, forthwith to give notice thereof to the supervisors.—§ 8440.

Duty of other township officers.

576. (6854.) SEC. 14. Whenever any supervisor shall know or have good reason to believe that any penalty or forfeiture has been incurred within his township, which cannot be recovered before a justice of the peace, it shall be his duty forthwith to give notice thereof to the prosecuting attorney of his county.—§ 8441.

When supervisor to give notice to prosecuting attorney.

577. (6855.) SEC. 15. In the cases mentioned in the last preceding section, and in all other cases where the prosecuting attorney shall know or have good reason to believe that a penalty or forfeiture has been incurred within his county, it shall be the duty of such prosecuting attorney, without delay, to prosecute for such penalty or forfeiture; and in all cases where any suit shall be instituted by the supervisor, as provided in this chapter, it shall be the duty of such prosecuting attorney, if requested by such supervisor, to attend to and conduct such suit on behalf of the plaintiffs.—§ 8442.

Duties of prosecuting attorney.

*574. The State can only be recognized by the courts as a suitor in legal proceedings through the agents or representatives appointed by law to speak and act in its name in the matter in hand; and, unless in the given case the proper agent or representative is present, in legal contemplation the State is not present; and this presence of such agent or representative can be made known and attested only by the record.—*People vs. Navarre*, 22 Mich., 4.

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ERRATA.

Page 7, eighth line of star (*) note, for "Secs. 184-185," read "Secs. 183-184."

Page 82, first line of dagger (+) note, for "Secs. 552-555," read "Secs. 553-556"; second line, for "Secs. 556-7," read "Secs. 557-8"; last line, for "Sec. 524," read "Sec. 525."

Page 87, seventh line of star (*) note, for "Secs. 552-555," read "Secs. 553-556"; eighth line, "Secs. 556-7," read "Secs. 557-8."

Page 90, last line of star (*) note, for "Sec. 524," read "Sec. 525."

Page 4, ninth line from bottom, for "Act No. 320" read "Act No. 230," also on page 157 (Index), third line from bottom, in second column, for "320" read "230."

NOTE.—Chapter II.—LOCAL BOARDS OF HEALTH, on pages 5-34, should contain a reference to Section 214, page 64, of this Compilation, which specifies duties of all local boards of health to investigate contagious or infectious diseases among domestic animals, and to establish temporary quarantine.

LAWS
OF THE
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